



**EB-2011-0187**

**IN THE MATTER OF** the *Ontario Energy Board Act*, 1998, S.O. 1998, c.15 (Schedule B);

**AND IN THE MATTER OF** an application by North Bay Hydro Distribution Ltd. for an order or orders approving or fixing just and reasonable distribution rates and other charges, to be effective May 1, 2012.

**BEFORE:** Karen Taylor  
Presiding Member

Paula Conboy  
Member

## **DECISION AND ORDER**

### **Introduction**

North Bay Hydro Distribution Ltd. (“North Bay”), a licensed distributor of electricity, filed an application with the Ontario Energy Board (the “Board”) on October 14, 2011 under section 78 of the *Ontario Energy Board Act*, 1998, S.O. 1998, c. 15, (Schedule B), seeking approval for changes to the rates that North Bay charges for electricity distribution, to be effective May 1, 2012.

North Bay is one of 77 electricity distributors in Ontario regulated by the Board. The *Report of the Board on 3<sup>rd</sup> Generation Incentive Regulation for Ontario’s Electricity Distributors* (the “IR Report”), issued on July 14, 2008, establishes a three year plan term for 3<sup>rd</sup> generation incentive regulation mechanism (“IRM”) (i.e., rebasing plus three years). In its October 27, 2010 letter regarding the development of a Renewed Regulatory Framework for Electricity (“RRFE”), the Board announced that it was

extending the IRM plan until such time as the RRFE policy initiatives have been substantially completed. As part of the plan, North Bay is one of the electricity distributors that will have its rates adjusted for 2012 on the basis of the IRM process, which provides for a mechanistic and formulaic adjustment to distribution rates and charges between cost of service applications.

To streamline the process for the approval of distribution rates and charges for distributors, the Board issued its IR Report, its *Supplemental Report of the Board on 3<sup>rd</sup> Generation Incentive Regulation for Ontario's Electricity Distributors* on September 17, 2008 (the "Supplemental Report"), and its *Addendum to the Supplemental Report of the Board on 3<sup>rd</sup> Generation Incentive Regulation for Ontario's Electricity Distributors* on January 28, 2009 (collectively the "Reports"). Among other things, the Reports contain the relevant guidelines for 2012 rate adjustments for distributors applying for distribution rate adjustments pursuant to the IRM process. On June 22, 2011, the Board issued an update to Chapter 3 of the Board's *Filing Requirements for Transmission and Distribution Applications* (the "Filing Requirements"), which outlines the application filing requirements for IRM applications based on the policies in the Reports.

Notice of North Bay's rate application was given through newspaper publication in North Bay's service area advising interested parties where the rate application could be viewed and advising how they could intervene in the proceeding or comment on the application. One letter of comment was received. The Notice of Application indicated that intervenors would be eligible for cost awards with respect to North Bay's request for lost revenue adjustment mechanism ("LRAM") recovery, revenue-to-cost ratio adjustments, and the disposition of Account 1562 (Deferred Payments in Lieu of Taxes). The Vulnerable Energy Consumers Coalition ("VECC") and Mr. D. Rennick applied and were granted intervenor status in this proceeding. The Board granted VECC eligibility for cost awards in regards to North Bay's request for LRAM recovery and revenue-to-cost ratio matters that go beyond the implementation of previous Board decisions. In his intervention request letter dated, November 9, 2011, Mr. Rennick did not request cost award eligibility. Board staff also participated in the proceeding. The Board proceeded by way of a written hearing.

While the Board has considered the entire record in this proceeding, it has made reference only to such evidence as is necessary to provide context to its findings. The following issues are addressed in this Decision and Order:

- Price Cap Index Adjustment;
- Rural or Remote Electricity Rate Protection Charge;
- Smart Grid Rate Adder;
- Revenue-to-Cost Ratio Adjustments;
- Shared Tax Savings Adjustments;
- Retail Transmission Service Rates;
- Review and Disposition of Group 1 Deferral and Variance Account Balances;
- Review and Disposition of Account 1521: Special Purpose Charge;
- Review and Disposition of Lost Revenue Adjustment Mechanism; and
- Review and Disposition of Account 1562: Deferred Payments In Lieu of Taxes.

### **Price Cap Index Adjustment**

As outlined in the Reports, distribution rates under the 3<sup>rd</sup> Generation IRM are to be adjusted by a price escalator, less a productivity factor (X-factor) of 0.72% and a stretch factor.

On March 13, 2012, the Board announced a price escalator of 2.0% for those distributors under IRM that have a rate year commencing May 1, 2012.

The stretch factors are assigned to distributors based on the results of two benchmarking evaluations to divide the Ontario industry into three efficiency cohorts. In its letter to Licensed Electricity Distributors dated December 1, 2011 the Board assigned North Bay to efficiency cohort 2 and a cohort specific stretch factor of 0.4%.

On that basis, the resulting price cap index adjustment is 0.88%. The price cap index adjustment applies to distribution rates (fixed and variable charges) uniformly across customer classes that are not eligible for Rural or Remote Electricity Rate Protection.

The price cap index adjustment will not apply to the following components of delivery rates:

- Rate Riders;
- Rate Adders;
- Low Voltage Service Charges;
- Retail Transmission Service Rates;
- Wholesale Market Service Rate;

- Rural or Remote Rate Protection Charge;
- Standard Supply Service – Administrative Charge;
- Transformation and Primary Metering Allowances;
- Loss Factors;
- Specific Service Charges;
- MicroFIT Service Charges; and
- Retail Service Charges.

### **Rural or Remote Electricity Rate Protection Charge**

On December 21, 2011, the Board issued a Decision with Reasons and Rate Order (EB-2011-0405) establishing the Rural or Remote Electricity Rate Protection (“RRRP”) benefit and charge for 2012. The Board amended the RRRP charge to be collected by the Independent Electricity System Operator from the current \$0.0013 per kWh to \$0.0011 per kWh effective May 1, 2012. The draft Tariff of Rates and Charges flowing from this Decision and Order will reflect the new RRRP charge.

### **Smart Grid Rate Adder**

In its application North Bay sought to maintain its smart grid rate rider of \$0.08 per metered customer per month. North Bay stated that in its 2010 cost of service application (EB-2009-0270), the Board approved this funding adder for the IRM plan term.

The Board finds that the continuation in the 2012 rate year (May 1, 2012 to April 30, 2013) of the Smart Grid Rate Adder of \$0.08 per metered customer per month is in accordance with the Settlement Agreement approved by the Board in EB-2009-0270.

### **Revenue-to-Cost Ratio Adjustments**

Revenue-to-cost ratios measure the relationship between the revenues expected from a class of customers and the level of costs allocated to that class. The Board has established target ratio ranges (the “Target Ranges”) for Ontario electricity distributors in its report *Application of Cost Allocation for Electricity Distributors*, dated November 28, 2007 and in its updated report *Review of Electricity Distribution Cost Allocation Policy*, dated March 31, 2011.

Pursuant to the Settlement Proposal approved by the Board in North Bay's 2010 cost of service application (EB-2009-0270), North Bay proposed to increase the revenue-to-cost ratio for the Street Lighting, Sentinel Lighting and the GS 3,000 to 4,999 kW rate classes to the bottom of the Board's target ranges.

The additional revenues from these adjustments would be used to reduce the revenue-to-cost ratio for the GS < 50 kW and GS > 50 kW rate classes.

The table below outlines the proposed revenue-to-cost ratios.

**Table 1**

<b>Rate Class</b>	<b>Current 2011 Ratio</b>	<b>Proposed 2012 Ratio</b>	<b>Target Range</b>
Residential	98.59	98.59	85 – 115
General Service < 50 kW	112.57	109.10	80 – 120
General Service > 50 kW	113.33	109.86	80 – 180
General Service 3,000 to 4,999 kW	69.32	80.00	80 – 180
Street Lighting	55.03	70.00	70 – 120
Sentinel Lighting	62.12	70.00	70 – 120
Unmetered Scattered Load	99.65	99.65	80 – 120

Board Staff and VECC submitted that the proposed revenue-to-cost ratio adjustments were in accordance with the Board's decision in North Bay's 2010 cost of service proceeding.

The Board agrees that the proposed revenue-to-cost ratios are consistent with the decision arising from the 2010 cost of service proceeding and therefore approves them as filed.

### **Shared Tax Savings Adjustments**

In its Supplemental Report, the Board determined that a 50/50 sharing of the impact of

currently known legislated tax changes, as applied to the tax level reflected in the Board-approved base rates for a distributor, is appropriate.

The calculated annual tax reduction over the IRM plan term will be allocated to customer rate classes on the basis of the Board-approved base-year distribution revenue. These amounts will be refunded to customers each year of the plan term, over a 12-month period, through a volumetric rate rider using annualized consumption by customer class underlying the Board-approved base rates.

North Bay's application originally identified a total tax savings of \$31,276 resulting in a shared amount of \$15,638 to be refunded to ratepayers. North Bay proposed to record the shared amount in Account 1595 consistent with the treatment approved by the Board in the 2011 IRM Decision.

In its submission, Board staff noted that there were discrepancies between the regulatory taxable income used by North Bay in the 2012 Shared Tax Savings Workform and the regulatory taxable income included in North Bay's 2010 Revenue Requirement Work Form. Board staff noted that this change would increase the amount to be returned to ratepayers from \$15,638 to \$102,200. Board staff invited North Bay to comment on this adjustment in its reply submission.

In his submission, Mr. Rennick indicated that his calculation of the tax savings shows a shared amount of \$56,285 which was calculated using the same principles applied during the 2010 IRM application.

In its reply submission, North Bay submitted that the method used to calculate the 2011 IRM shared tax savings should be applied in the 2012 IRM proceeding. North Bay further submitted that a shared amount of \$56,285 should be recorded in account 1595.

The Board approves a shared tax savings amount of \$56,285 to be disposed of over a one year period from May 1, 2012 to April 30, 2013.

### **Retail Transmission Service Rates**

Electricity distributors are charged the Ontario Uniform Transmission Rates ("UTRs") at the wholesale level and subsequently pass these charges on to their distribution customers through the Retail Transmission Service Rates ("RTSRs"). Variance

accounts are used to capture timing differences and differences in the rate that a distributor pays for wholesale transmission service compared to the retail rate that the distributor is authorized to charge when billing its customers (i.e. variance Accounts 1584 and 1586).

On June 22, 2011 the Board issued revision 3.0 of the *Guideline G-2008-0001 - Electricity Distribution Retail Transmission Service Rates* (the "RTSR Guideline"). The RTSR Guideline outlines the information that the Board requires electricity distributors to file to adjust their RTSRs for 2012. The RTSR Guideline requires electricity distributors to adjust their RTSRs based on a comparison of historical transmission costs adjusted for the new UTR levels and the revenues generated under existing RTSRs. The objective of resetting the rates is to minimize the prospective balances in Accounts 1584 and 1586. In order to assist electricity distributors in the calculation of the distributors' specific RTSRs, Board staff provided a filing module.

On December 20, 2011 the Board issued its Rate Order for Hydro One Transmission (EB-2011-0268) which adjusted the UTRs effective January 1, 2012, as shown in the following table:

**Table 2 - 2012 Uniform Transmission Rates**

Network Service Rate	\$3.57 per kW
<u>Connection Service Rates</u>	
Line Connection Service Rate	\$0.80 per kW
Transformation Connection Service Rate	\$1.86 per kW

The Board finds that these 2012 UTRs are to be incorporated into the filing module.

### **Review and Disposition of Group 1 Deferral and Variance Account Balances**

The *Report of the Board on Electricity Distributors' Deferral and Variance Account Review Report Initiative* (the "EDDVAR Report") provides that, during the IRM plan term, the distributor's Group 1 account balances will be reviewed and disposed if the preset disposition threshold of \$0.001 per kWh (debit or credit) is exceeded. The onus is on the distributor to justify why any account balance in excess of the threshold should not be disposed.

North Bay's 2010 actual year-end total balance for Group 1 Accounts including interest projected to April 30, 2012 is a debit of \$753,759. This amount results in a total debit claim of \$0.00134 per kWh, which exceeds the preset disposition threshold. North Bay proposed to dispose of this debit amount over a two year period.

North Bay stated that the default disposition used to clear Account balances through a rate rider should be one year. However, with the inclusion of the LRAM claim, Account 1562 and the large debit balance in Account 1588 Global Adjustment Sub-Account, phasing the disposition over a two year period would mitigate the rate impacts and maintain the simplicity of the tariff sheet.

North Bay stated that it did not previously have the billing capability to dispose of the global adjustment sub-account (the "GA sub-account") by means of a separate rate rider that would prospectively apply to non-RPP customers only. In North Bay's 2011 IRM Decision and Order, the Board stated its expectation that North Bay Hydro will be in a position to dispose of the global adjustment sub-account by means of a separate rate rider applied only to non-RPP customers as soon as possible, and no later than at the time of its next rebasing. In this current application, North Bay indicated that they will be able to do so effective May 1, 2012.

In its submission, Board staff noted that the principal amounts to be disposed as of December 31, 2010 reconcile with the amounts reported as part of the *Reporting and Record-keeping Requirements* ("RRR"). Board staff submitted that the amounts should be disposed on a final basis.

With respect to the disposition period, Board staff submitted that the application is not consistent with the guidelines outlined in the EDDVAR Report with respect to the default disposition period (one year) for Group 1 accounts. However, Board staff expressed the view that using a disposition period of two years would strike an appropriate balance between reducing intergenerational inequity and mitigating rate volatility.

The Board notes that the EDDVAR disposition threshold of \$0.001/kWh has been exceeded. The Board approves the disposition on a final basis a debit balance of \$753,759, representing principal as at December 31, 2010 and carrying costs to April 30, 2012, over a two year period, from May 1, 2012 to April 30, 2014. The Board is of the view that a two year disposition period appropriately balances intergeneration equity and rate smoothing objectives. The Board also notes that North Bay will have the

capability, as of May 1, 2012, to dispose of the GA sub-account by means of a separate rate rider that applies to non-RPP customer only. The Board directs the disposition of the GA sub-account by means of a separate rate rider to non-RPP customers only.

The table below identifies the principal and interest amounts approved for disposition for Group 1 Accounts.

**Table 3**

<b>Account Name</b>	<b>Account Number</b>	<b>Principal Balance A</b>	<b>Interest Balance B</b>	<b>Total Claim C = A + B</b>
LV Variance Account	1550	\$30,070	\$924	\$30,994
RSVA - Wholesale Market Service Charge	1580	-\$749,839	-\$18,492	-\$768,331
RSVA - Retail Transmission Network Charge	1584	\$590,978	\$15,488	\$606,466
RSVA - Retail Transmission Connection Charge	1586	\$320,707	\$8,748	\$329,455
RSVA - Power (excluding Global Adjustment)	1588	-\$56,643	\$245	-\$56,398
RSVA - Power – Global Adjustment Sub-Account	1588	\$561,975	\$16,620	\$578,595
Recovery of Regulatory Asset Balances	1590	\$0	\$0	\$0
Disposition and Recovery of Regulatory Balances (2008)	1595	-\$666,077	\$699,055	\$32,978
Disposition and Recovery of Regulatory Balances (2009)	1595	\$0	\$0	\$0
<b>Group 1 Total</b>		\$31,171	\$722,588	<b>\$753,759</b>

For accounting and reporting purposes, the respective balance of each Group 1 account approved for disposition shall be transferred to the applicable principal and interest carrying charge sub-accounts of Account 1595 pursuant to the requirements specified in Article 220, Account Descriptions, of the *Accounting Procedures Handbook for*

*Electricity Distributors.* The date of the journal entry to transfer the approved account balances to the sub-accounts of Account 1595 is the date on which disposition of the balances are effective in rates, which generally is the start of the rate year (e.g. May 1). This entry should be completed on a timely basis to ensure that these adjustments are included in the June 30, 2012 (3<sup>rd</sup> Quarter) RRR data reported.

### **Review and Disposition of Account 1521: Special Purpose Charge**

The Board authorized Account 1521, Special Purpose Charge Assessment (“SPC”) Variance Account in accordance with Section 8 of *Ontario Regulation 66/10 (Assessments for Ministry of Energy and Infrastructure Conservation and Renewable Energy Program Costs)* (the “SPC Regulation”). Accordingly, any difference between (a) the amount remitted to the Minister of Finance for the distributor’s SPC assessment and (b) the amounts recovered from customers on account of the assessment were to be recorded in “Sub-account 2010 SPC Assessment Variance” of Account 1521.

In accordance with Section 8 of the SPC Regulation, distributors are required to apply no later than April 15, 2012 for an order authorizing the disposition of any residual balance in sub-account 2010 SPC Assessment Variance. The Filing Requirements sets out the Board’s expectation that requests for disposition of this account balance would be heard as part of the proceedings to set rates for the 2012 year.

North Bay requested the disposition of a residual debit balance of \$6,177.50 as at December 31, 2010, plus collections in 2011 and carrying costs until April 30, 2012 over a two year period.

Board staff submitted that despite the usual practice, the Board should authorize the disposition of Account 1521 as of December 31, 2010, plus the amounts recovered from customers in 2011, including interest, because the account balance does not require a prudence review, and electricity distributors are required by regulation to apply for disposition of this account. Board staff submitted that the \$6,177.50 debit balance in Account 1521 should be approved for disposition on a final basis.

The Board approves, on a final basis, North Bay’s request for the disposition of the principal and interest balances in Account 1521 totaling \$6,177.50 over a two year period, May 1, 2012 to April 30, 2014. The Board directs North Bay to close Account 1521 as of May 1, 2012.

For accounting and reporting purposes, the balance of Account 1521 shall be transferred to the applicable principal and interest carrying charge sub-accounts of Account 1595 pursuant to the requirements specified in Article 220, Account Descriptions, of the *Accounting Procedures Handbook for Electricity Distributors*. The date of the journal entry to transfer the approved account balances to the sub-accounts of Account 1595 is the date on which disposition of the balances are effective in rates, which generally is the start of the rate year (e.g. May 1). This entry should be completed on a timely basis to ensure that these adjustments are included in the June 30, 2012 (3<sup>rd</sup> Quarter) RRR data reported.

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

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.

North Bay originally requested the recovery of an LRAM claim of \$187,545 over a two year period. The lost revenues include the effect of CDM programs delivered in 2008, 2009 and 2010 and the persisting energy savings between January 1, 2008 and April 30, 2012. North Bay used final 2010 OPA program results to calculate its LRAM amount.

In response to VECC interrogatory #2b, North Bay revised its LRAM claim from \$187,545 to \$97,210 since North Bay omitted to adjust the LRAM claim by the projected CDM kWh savings from its approved 2010 load forecast.

Board staff’s submission noted that North Bay’s rates were last rebased in 2010. Board staff noted that in its Decision and Order in the EB-2011-0174 proceeding, the Board disallowed LRAM claims for the rebasing year as well as persistence of prior year programs in and beyond the test year on the basis that these savings should have been incorporated into the applicant’s load forecast at the time of rebasing.

Board staff noted that in cases in which it was clear in the application or settlement agreement that an adjustment for CDM was not being incorporated into the load forecast specifically because of an expectation that an LRAM application would address the issue, and if this approach was accepted by the Board, then Board staff would agree that an LRAM application is appropriate. Board staff requested that North Bay highlight

in its reply submission whether the issue of an LRAM application was addressed in their cost of service application.

Board staff submitted that in the absence of the above information, North Bay should not be permitted to recover the requested persisting lost revenues from 2008 and 2009 CDM programs in 2010, the lost revenues from 2010 CDM programs, or the lost revenues from 2008-2010 CDM programs persisting from January 1, 2011 to April 30, 2012 as these amounts should have been built into North Bay's last approved load forecast.

Board staff supported the approval of the 2008 and 2009 lost revenues requested by North Bay as these lost revenues took place during IRM years and North Bay did not have an opportunity to recover these amounts. Board staff requested that North Bay provide an updated LRAM amount that only includes lost revenues from 2008 and 2009 CDM programs in the years 2008 and 2009 and the subsequent rate riders.

VECC submitted that the lost revenues from 2008 CDM programs are eligible for recovery in 2008 and 2009 but are not accruable in 2010 and beyond as the energy savings are assumed to be incorporated in the 2010 load forecast. VECC submitted that the LRAM claim should not include any lost revenue in 2010 from 2010 OPA CDM programs, persisting lost revenues from 2008 and 2009 CDM programs in 2010 and persisting lost revenues from 2008 to 2010 CDM programs over the period January 1, 2011 to April 30, 2012, as the rebasing year forecast is final and these savings should have been incorporated in the 2010 lost forecast. VECC further submitted that lost revenues for 2009 CDM program in 2009 are eligible for recovery as these savings occurred prior to rebasing.

In his submission, Mr. Rennick argued that LRAM claims penalize customers for their efforts to reduce consumption.

In its reply submission, North Bay stated that it should not be penalized for following provincial directive by promoting conservation and attaining higher than expected results. North Bay argued that while its 2010 load forecast included estimates for 2009 and 2010 CDM programs, it is unreasonable that Board staff would suggest that the savings in excess of that forecast should not be included in its LRAM claim. North Bay noted that it is unclear why the principles outlined in the new CDM guidelines would not be applied to North Bay's application, especially in light of North Bay's proactive stance towards conservation. North Bay submitted that the LRAM claim of \$97,210 is

accounting for the difference between the forecasted revenue loss embedded in rates and the actual revenue loss incurred by the utility and it is reasonable, just and appropriate.

The Board will approve an LRAM claim of \$40,383 reflecting lost revenues associated with CDM programs delivered in 2008 and 2009, when North Bay was under IRM and did not previously recover these amounts. The Board approves a two year disposition period, from May 1, 2012 to April 30, 2014. The Board will not approve LRAM arising from persistence from 2008 and 2009 programs in 2010, as these amounts were reflected in North Bay's 2010 load forecast. The Board will not approve lost revenues from 2008 – 2010 CDM programs persisting from January 1, 2011 to April 30, 2012, as these amounts, absent specific language in the Board EB-2009-0270 Decision or Settlement Agreement are assumed to be reflected in North Bay's 2010 load forecast. The Board will not approve an LRAM recovery associated with the January 1 to April 30, 2010 period, as this claim was not tested during the proceeding and is not consistent with the Board's practice.

### **Review and Disposition of Account 1562 Deferred Payments in Lieu of Taxes**

In 2001, the Board approved regulatory payments in lieu of tax proxy approach for rate applications coupled with a true-up mechanism filed under the RRR to account for changes in tax legislation and rules and to true-up between certain proxy amounts used to set rates and the actual amount of taxes paid. The variances resulting from the true-up were tracked in Account 1562 for the period 2001 through April 30, 2006.

On November 28, 2008, pursuant to sections 78, 19 (4) and 21 (5) of the *Ontario Energy Board Act, 1998*, the Board commenced a Combined Proceeding (EB-2008-0381) on its own motion to determine the accuracy of the final account balances with respect to Account 1562 Deferred Payments in Lieu of Taxes ("Deferred PILs") (for the period October 1, 2001 to April 30, 2006) for certain electricity distributors that filed 2008 and 2009 distribution rate applications.

The Notice in the Combined Proceeding included a statement of the Board's expectation that the decision resulting from the Combined Proceeding would be used to determine the final account balances with respect to Account 1562 Deferred PILs for the remaining distributors. In its decision and order, the Board stated that, "[e]ach remaining distributor will be expected to apply for final disposition of Account 1562 with

its next general rates application (either IRM or cost of service).”<sup>1</sup>

North Bay applied to dispose of a debit balance in Account 1562 of \$1,776,381 including carrying charges projected to April 30, 2012 over a two-year period.

#### 2001 Fourth Quarter and 2002 PILs Entitlement

In interrogatory #5a), Board staff asked why North Bay believed that its entitlement to the 2001 and 2002 PILs proxy should begin prior to May 1, 2002. North Bay’s response to this interrogatory was:

“NBHDL, as with the majority of LDCs in the province, became taxable (via PILS) on October 1, 2001. Through the natural cycle of rate setting in the industry, distribution rates including recovery of PILS were not approved until May 1, 2002 (effective date).

North Bay Hydro has replicated the schedule approved through the combined proceeding decision (EB-2008-0381). In the combined proceeding the applicants commenced the Q4 2001 entitlements in October 2001 and 2002 entitlements in January 2002.”

Board staff submitted that North Bay should not record the 2001 fourth quarter and 2002 PILs proxies or entitlements for the period prior to the effective date of May 1, 2002. Board staff submitted that North Bay should file the revised PILs reconciliation worksheet, continuity schedule and EDDVAR continuity schedule.

Board staff noted that North Bay had proposed unbundled rates to be effective on the market opening date of May 1, 2002. North Bay voluntarily remained on a bundled rate structure until May 1, 2002 and in order to mitigate customer impact, North Bay voluntarily requested that the unbundled rate impact including the 2001 and 2002 PILs proxies not take effect until May 1, 2002. Accordingly, North Bay was not eligible to start collecting PILs from its customers until May 1, 2002. Board staff submitted that the proxy recognition in the continuity schedule should be based on the number of months between May 1, 2001 and the next rate change approved by the Board which will result in a lower proxy that reflects the number of months of collection from ratepayers

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<sup>1</sup> EB-2008-0381 Account 1562 Deferred PILs Combined Proceeding, Decision and Order, p. 28

Write-down of Capital Property and Loss of Disposal of Assets

In its submission, Board staff noted that in the 2002 tax year, North Bay reported on its tax return a write-down of capital property of \$540,755. Board staff submitted that since a write-down of assets is accelerated depreciation, this should not true-up to ratepayers under the established Board methodology. Board staff also noted that North Bay chose not to file an application to reduce the fixed asset value in rate base. As such, North Bay continued to recover a higher return from these written down assets during the period 2002 to May 1, 2006. Board staff further noted its understanding that North Bay's shareholders continued to receive a benefit of the asset in rate base from 2004 to 2006 and that North Bay did not file an application to recover the loss on the asset that was sold to a third party.

Board staff submitted that the write-down of capital property of \$540,755 in 2002 and the loss of disposal of assets of \$144,597 in 2004 should not true-up to ratepayers. Board staff submitted that North Bay should move the transactions to TAXREC3 in the 2002 and 2004 SIMPIL models respectively and that North Bay should re-file the corrected 2002 and 2004 SIMPIL models, PILs continuity schedule and EDDVAR continuity schedule.

Mr. Rennick stated that there appears to be no compelling reason to treat PILs outlays any differently than other expenditures. Mr. Rennick further stated that the PILs amount included in rates is not an "approved" amount in the same manner as other revenues and expenses. Estimating PILs payable and including it in rates is solely to provide LDCs with the funds to pay and does not give North Bay authority to collect that amount regardless of the results of operations for the taxation year. Therefore any subsequent recovery from ratepayers based on the estimated PILs amounts should not be considered in any calculation regarding variances. Mr. Rennick noted that the Board quotes the Electricity Distribution Rates Handbook as indicating that "the incorporation of PILs will be treated as a pass through". The treatment used by North Bay in this application and condoned by the Board fails to do that since it does not compare the actual expense to the amounts collected. Mr. Rennick further noted that this is not a pass through of PILS as imagined by the Board in 2001 and as such should not be allowed as a charge to ratepayers.

The Board agrees with the submissions of Board staff and finds that:

North Bay requested and was granted an effective date for reflecting PILs in rates as of May 1, 2002. Accordingly, while North Bay may have had a PILs liability for this period, it specifically requested a delay in passing PILs related costs on to customers through rates in order to mitigate the rates it charged its customers. No deferral account was requested or approved. The Board disagrees with North Bay's assertion that the entitlement commences upon becoming subject to taxation and not with rate approval in this case since North Bay specifically requested and was granted a delay implementing PILs in rates. The Board finds that since North Bay requested and the Board granted an effective date of rate change of May 1, 2002, North Bay should not record the 2001 4<sup>th</sup> quarter and 2002 PILs proxies or entitlements for the period prior to the effective date of May 1, 2002.

The Board is of the view that the write-down of capital property of \$540,755 in 2002 as well as the loss on disposal of assets of \$144,597 in 2004 should not true-up to ratepayers. The Board notes that North Bay continued to receive, over the 2002 to 2006 period, depreciation and cost of capital (debt and equity) on each of these amounts as both remained in rate base until May 1, 2006, based on December 31, 2004 values which reflected the write-down.

The Board directs North Bay to move the write-down of capital property of \$540,755 in 2002, and loss on disposal of \$144,597 in 2004, to TAXREC3 in 2002 and 2004 SIMPIL models respectively. North Bay should re-file the corrected 2002 and 2004 SIMPIL models, PILs continuity schedules and EDDVAR continuity schedule.

Subject to making these above-noted adjustments, the Board approves the disposition of the balance in 1562, on a final basis, comprised of principal at May 1, 2006 and interest to April 30, 2012, over a two year period, May 1, 2012 to April 30, 2014.

With respect to the submissions of Mr. Rennick, while the Board considered the issues raised in his submissions, the Board is of the view that it would be inappropriate to reconsider a policy determination of the Board made at a date so far in the past. To do so in the manner suggested by Mr. Rennick would require the Board to engage in retroactive ratemaking, which is contrary to the legal principles upon which the Board performs its legislated mandate.

For accounting and reporting purposes, the balance of Account 1562 shall be transferred to the applicable principal and interest carrying charge sub-accounts of Account 1595 pursuant to the requirements specified in Article 220, Account Descriptions, of the *Accounting Procedures Handbook for Electricity Distributors*. The date of the journal entry to transfer the approved account balances to the sub-accounts of Account 1595 is the date on which disposition of the balances are effective in rates, which generally is the start of the rate year (e.g. May 1), and this entry should be completed on a timely basis to ensure that these adjustments are included in the June 30, 2012 (Quarter 3) RRR data reported.

### **IMPLEMENTATION**

The Board has made findings in this Decision which change the 2012 distribution rates from those proposed by North Bay.

The Board expects North Bay to file a draft Rate Order, including all relevant calculations showing the impact of this Decision on North Bay's determination of the final rates. Supporting documentation shall include, but not be limited to, filing completed versions of the 2012 IRM Rate Generator model, corrected 2002 and 2004 SIMPIL models, PILs continuity schedules to support the claim for disposition of account 1562 Deferred PILs. The LRAM calculations showing the derivation of the final rate riders to recover the approved LRAM amount should also be included in the draft Rate Order material.

A Rate Order will be issued after the steps set out below are completed.

### **THE BOARD ORDERS THAT:**

1. North Bay shall file with the Board, and shall also forward to intervenors, a draft Rate Order that includes revised models in Microsoft Excel format and a proposed Tariff of Rates and Charges reflecting the Board's findings in this Decision within 7 days from date of issuance of Decision and Order.
2. Board staff and intervenors shall file any comments on the draft Rate Order including the revised models and proposed rates with the Board and forward to North Bay within 7 days of the date of filing of the draft Rate Order.
3. North Bay shall file with the Board and forward to intervenors responses to any

comments on its draft Rate Order including the revised models and proposed rates within 4 days of the date of receipt of intervenor comments.

### **Cost Awards**

The Board will issue a separate decision on cost awards once the following steps are completed:

1. VECC shall submit their cost claims no later than **7 days** from the date of issuance of the final Rate Order.
2. North Bay shall file with the Board and forward to VECC any objections to the claimed costs within **21 days** from the date of issuance of the final Rate Order.
3. VECC shall file with the Board and forward to North Bay any responses to any objections for cost claims within **28 days** from the date of issuance of the final Rate Order.
4. North Bay shall pay the Board's costs incidental to this proceeding upon receipt of the Board's invoice.

All filings to the Board must quote file number **EB-2011-0187**, be made through the Board's web portal at, [www.errr.ontarioenergyboard.ca](http://www.errr.ontarioenergyboard.ca) and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.ontarioenergyboard.ca](http://www.ontarioenergyboard.ca). If the web portal is not available parties may email their document to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 2 paper copies.

**DATED** at Toronto, April 4, 2012  
**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary