



EB-2011-0182

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 Midland
Power Utility Corporation 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

Midland Power Utility Corporation (“Midland”), a licensed distributor of electricity, filed an application with the Ontario Energy Board (the “Board”) on November 10, 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 Midland charges for electricity distribution, to be effective May 1, 2012.

Midland is one of 77 electricity distributors in Ontario regulated by the Board. The *Report of the Board on 3rd Generation Incentive Regulation for Ontario’s Electricity Distributors* (the “IR Report”), issued on July 14, 2008, establishes a three year plan term for 3rd 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, Midland 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 3rd 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 3rd 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 Midland's rate application was given through newspaper publication in Midland'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. No letters of comment were received. The Vulnerable Energy Consumers Coalition ("VECC") was granted intervenor status in this proceeding. The Board granted VECC eligibility for cost awards in regards to Midland's request for lost revenue adjustment mechanism ("LRAM") recovery. 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;
- 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 3rd 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 Midland 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.

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.

Midland’s application identified a total tax savings of \$4,894 resulting in a shared amount of \$2,447 to be refunded to rate payers.

Midland requested that the Board authorize this amount to be recorded in Account 1595 for disposition in a future rate proceeding given that the amount is not significant.

In its submission, Board staff noted that Midland’s proposal is consistent with section 2.5 of the Filing Requirements.

In its reply submission, Midland PUC expressed its agreement with Board staff and requested the Board accord the same treatment as in previous Decisions and Orders whereby the shared tax savings amount is recorded in account 1595 for disposition in a future rate proceeding since the amount is not material.

The Board approves a shared tax savings of \$2,447 and finds that as the amount to be returned to ratepayers is not material, Midland is to record the credit in Account 1595 for

disposition in a future rate proceeding.

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:

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.

Midland's 2010 actual year-end total balance for Group 1 Accounts including interest projected to April 30, 2012 is a credit of \$634,915. This amount results in a total credit claim of \$0.0029 per kWh, which exceeds the preset disposition threshold. Midland proposed to dispose of this credit amount over a one-year period.

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. Board staff further submitted that Midland's proposal for a one-year disposition period is in accordance with the EDDVAR Report.

The Board approves, on a final basis, the disposition of a credit balance of \$634,915 as of December 31, 2010, including interest as of April 30, 2012 for Group 1 accounts. These balances are to be disposed over a one year period from May 1, 2012 to April 30, 2013.

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

Account Name	Account Number	Principal Balance A	Interest Balance B	Total Claim C = A + B
LV Variance Account	1550	-\$74,769	-\$1,460	-\$76,229
RSVA - Wholesale Market Service Charge	1580	-\$238,628	-\$4,659	-\$243,287
RSVA - Retail Transmission Network Charge	1584	\$37,435	\$736	\$38,171
RSVA - Retail Transmission Connection Charge	1586	-\$13,498	-\$277	-\$13,775
RSVA - Power (excluding Global Adjustment)	1588	-\$174,611	-\$3,372	-\$177,983
RSVA - Power – Global Adjustment Sub-Account	1588	-\$158,736	-\$3,076	-\$161,812
Recovery of Regulatory Asset Balances	1590			
Disposition and Recovery of Regulatory Balances (2008)	1595			
Disposition and Recovery of Regulatory Balances (2009)	1595			
Group 1 Total				-\$634,915

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 is 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 (3rd 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 state 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.

Midland did not request the disposition of Account 1521 in this application since the sunset date for the recovery of the SPC is April 30, 2011. Midland proposed to defer the disposition of Account 1521 in a future cost-of-service or IRM application.

In response to Board staff interrogatory #3, Midland provided a table identifying the principal balance of Account 1521 as of December 31, 2010, including the amount recovered from customers in 2011, plus projected carrying charges as of April 30, 2012. This total balance is a credit \$26.83.

Board staff notes that the usual practice by the Board is to dispose of audited deferral and variance account balances. Board staff further noted that the Board has approved the disposition of unaudited balances in account 1521 in both the Horizon (EB-2011-0172) and Hydro One Brampton (EB-2011-0174) 2012 IRM proceedings.

Board staff also noted that the Board's letter issued on April 23, 2010 to all Licensed Electricity Distributors stated:

"In accordance with section 8 of the SPC Regulation, you are required to apply to the Board no later than April 15, 2012 for an order authorizing you to clear any debit or credit balance in "Sub-account 2010 SPC Variance".

Accordingly, Board staff submitted that the Board should authorize the disposition of Account 1521 as of December 31, 2010, plus the amount recovered from customers in 2011, including the appropriate carrying charges as of April 30, 2012.

Board staff also submitted that if the Board decides to dispose of account 1521, the disposition should be on a final basis and account 1521 should be closed.

In its reply submission, Midland agreed with Board staff to dispose of Account 1521 including the amounts recovered from customers in 2011 and carrying charges up to April 30, 2012. However, Midland did not agree with Board Staff that the disposition should be on a final basis and that Account 1521 should be closed. Midland submitted that final disposition should not be based on forecasted recoveries or interest rates, but should be based on actual recoveries and interest rates.

Midland further submitted should the Board decide to dispose of account 1521 that it dispose of \$26.83 and a true-up be completed when Midland files its next cost of service rate application or IRM Application, whichever is first.

The Board approves, on a final basis, the disposition of a credit balance of \$26.83 in Account 1521, representing the balance as of December 31, 2010, plus the amounts recovered in 2011, plus projected carrying charges to April 30, 2012, over a one year period, from May 1, 2012 to April 30, 2013. The Board directs that Account 1521 be closed effective May 1, 2012. The Board notes that these determinations are consistent with other 2012 IRM decisions.

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 is 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 (3rd 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.

Midland originally requested the recovery of an LRAM claim of \$76,737.50. In response to Board staff interrogatory #4b and VECC interrogatory #3, Midland updated its LRAM claim to \$69,635.00 to reflect the Ontario Power Authority's (“OPA”) 2010 final results.

Midland's LRAM claim consists of the lost revenues from 2006-2010 CDM programs in 2010 and 2011. The LRAM request can be divided into three parts: (i) persistence of lost revenue for 2006-2009 programs in 2010 and 2011; (ii) 2010 lost revenues from 2010 CDM programs; and (iii) persistence of lost revenues from 2010 CDM programs in 2011. Midland proposed to recover the LRAM claim over a one-year period.

Persisting impacts of 2006-2009 CDM programs

In its submission, Board staff noted that Midland's rates were last rebased in 2009. Board staff further noted that that CDM Guidelines state the following:

“Lost Revenues are only accruable until new rates (based on a new revenue requirement and load forecast are set by the Board, as the savings would be assumed to be incorporated in the load forecast at that time.”

Board staff also noted that in its Decision and Order in Hydro One Brampton's 2012 IRM Application (EB-2011-0174), 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 the 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 Midland highlight in its reply submission whether the issue of an LRAM application was addressed in its cost of service application.

Board staff also submitted that in the absence of the above information, Board staff does not support the recovery of the requested persisting lost revenues from 2006-2009 CDM programs in 2010 or 2011 as these amounts should have been built into Midland's last approved load forecast.

VECC submitted that energy savings from Midland's CDM programs deployed between 2006 and 2009 are not accruable in 2010 and 2011 as savings should have been incorporated in the 2009 load forecast at the time of rebasing.

In its reply submission, Midland noted that its 2009 cost of service application included a load forecast supported by regression analysis based on monthly data from May 2002 to December 2007. In the regression analysis performed at that time, no variables were identified for CDM as Midland did not feel enough data was available to accurately represent the effects of CDM savings.

Midland submitted that the effects of CDM activities could not have been accurately forecast in 2009 and therefore were not included in the load forecast.

Midland further submitted that it disagrees with Board staff's and VECC's positions and requests the Board's approval of its LRAM claim for persisting lost revenues from 2006, 2007, 2008, and 2009 CDM programs in 2010 and 2011.

2010 lost revenues

Board staff noted that Midland was under IRM in 2010 and did not have an opportunity to collect these amounts. Board staff supports recovery of lost revenues in 2010 and requested that Midland provide in its reply submission an updated LRAM amount that only includes lost revenues from 2010 CDM programs in 2010.

VECC also supported the approval of lost revenues in 2010 from the impact of CDM programs implemented in 2010, as these saving have not been claimed.

In its reply submission, Midland indicated that the lost revenue from 2010 CDM programs in 2010 is \$11,223.

Input Assumptions for 2009 Every Kilowatt Counts Program

In its submission, VECC noted that for the 2009 Final Every Kilowatt Counts ("EKC") Power Savings Event, 101.42 kWh was used as the input assumption to calculate net annual energy savings for installed CFLs. VECC submitted that this input assumption is outdated and that 46.3 kWh should have been used. VECC however noted that the impact is immaterial.

In its reply submission, Midland agreed with VECC that the changes to the input assumptions for the 2009 EKC program would result in an immaterial change and did not update its LRAM request.

2010 lost revenues persisting into 2011

Board staff submitted that it is premature to consider any lost revenues persisting in 2011 at this time.

VECC submitted that it does not support the approval of 2010 amounts persisting in 2011 noting that LRAM is a retrospective adjustment and that Midland should apply for recovery of 2011 lost revenues in a future proceeding.

In its reply submission, Midland noted that the OPA has identified the 2010 program savings as final, including the persisting savings in 2011. Midland further noted that the 2010 programs do not depend on the Measures and Assumptions lists, therefore providing no reason for Midland to revisit these amounts in the future. Midland requested approval of the persisting savings from 2010 programs in 2011.

The Board approves an LRAM recovery of \$11,223, representing lost revenues from 2010 CDM programs in 2010, as Midland was under IRM for this period and has not otherwise been compensated for lost revenues from these programs in 2010. The Board will not approve an LRAM recovery arising from persistence from 2006 to 2009 CDM programs in 2010 and 2011, as these effects should have been reflected in Midland's 2009 load forecast. The Board notes that in the absence of specific language in the Board's decision in EB-2008-0236 indicating otherwise, there is no reasonable basis to diverge from the 2008 CDM Guidelines. The Board will not approve an LRAM claim arising from persistence of 2010 CDM programs in 2011, as this claim is premature and is contrary to the 2008 CDM Guidelines.

Review and Disposition of Account 1562: Deferred Payments in Lieu of Taxes

In 2001, the Board approved a regulatory payments in lieu of taxes 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 Deferred PILs 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 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)."¹

Midland originally filed an application to recover a debit balance of \$173,418 in Account 1562. In response to interrogatories, Midland revised this amount to a debit balance of \$164,412.

In its submission, Board staff raised issues regarding the income tax rates used in the true-up calculations, and the amount related to conservation and demand management ("CDM"). Board staff noted that Midland used the blended maximum income tax rates in each year to calculate the PILs true-up variances. Board staff also noted that in its 2005 SIMPIL² model, Midland did not enter the full actual amount incurred in its 2005 CDM programs in order to calculate the variance when compared with the estimate used in its 2005 rates application.

Board staff submitted that since Midland was not subject to the maximum income tax rates during the tax years 2001 through 2005, Midland should not use these maximum income tax rates to calculate the variances it wants to collect from its ratepayers. Board staff noted that Midland's regulatory rate base as a proxy for taxable paid-up capital was below \$10 million. Based on this tax profile, Board staff was of the view that Midland was eligible for the full small business deduction from 2001 through 2005. Board staff submitted that Midland should use the income tax rates shown in the table entitled "Minimum Income Tax Rates in Percentages" provided in its submission and in the decision in the combined proceeding.³

Midland submitted that it understood that Grimsby's 2012 distribution rates were approved based on a settlement agreement that included a settlement on the issue of the disposition of account 1562. Midland also stated its understanding that the Board

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

² Spreadsheet implementation model for payments in lieu of taxes

³ EB-2008-0381 Account 1562 Deferred PILs Combined Proceeding, Decision and Order, p.17.

typically would not approve a settled issue that was not consistent with Board policy. As a result, Midland submitted that it would not be consistent with Board policy to allow Grimsby to use the maximum blended tax rates for the purposes of true-up when they are subject to the small business deduction, but then turn around and suggest that Midland should not use the maximum blended tax rate since they are subject to the small business deduction.

Midland submitted that the maximum blended tax rate should be used to be consistent with all Board Decisions issued to date.⁴ However, in the event the Board decides that the blended maximum income tax rates are not to be used in Midland's case, Midland submitted that the tax rates listed in the table below be used for the purposes of true-up.

2001	2002	2003	2004	2005
19.12%	19.12%	29.41%	31.58%	29.7%

Midland explained that for 2001 and 2002, the tax rates are the minimum tax rates. For 2003 to 2005, the tax rates are the effective income tax rates based on Midland's incurred taxable regulatory income. Midland did not provide an explanation of how it calculated these income tax rates, or why these tax rates would have been applicable to its tax position during the period under review.

Midland calculated that, under the alternative scenarios created by using the income tax rates shown in the preceding table, it would owe its customers approximately \$246,000 including interest up to April 30, 2012. Midland submitted that if the Board ordered this refund to ratepayers over one year, this would cause a significant impact on the level of operational cash for Midland and could cause financial hardship for the utility. Midland requested that since this true-up amount occurred over a five year period from 2001 to 2005, it should be paid back to customers over a five year period.

With respect to the second issue, Board staff submitted that the CDM amount of \$72,370.50 which was deducted from revenues in the 2005 audited financial statements should be added to the \$4,000 already entered in the 2005 SIMPIL in order to determine the correct true-up amount. Midland agreed with Board staff on the treatment in SIMPIL of the \$72,370.50, and Midland submitted that it will file all necessary revisions to the models once the Board has provided a final decision on the issues related to the disposition of account 1562.⁵

⁴ Midland, Reply, February 24, 2012, page 11.

⁵ Midland, Reply, February 24, 2012, page 5.

The Board does not agree with Midland's interpretation of the decision in the PILS Combined Proceeding (EB-2008-0381) and notes that this decision specifically states that, "The Board finds that the Applicants are to use the applicable tax rate percentages from the applicable table above for the purposes proposed by Board staff in its reply submission" and that two taxation rates tables appeared on page 17 of that decision. It is not determinative that the utilities considered in the Combined Proceeding were indeed subject to the maximum income tax rates.

The Board notes that Midland was not subject to the maximum taxation rates over the 2001 to 2005 period and that it was also eligible for the full small business deduction. The Board is not persuaded that the alternative taxation rates proposed by Midland should be used, as the evidentiary basis to support the proposed tax rates in 2003, 2004 and 2005 was not provided and the tax rates were not subject to discovery, as Midland filed these alternative tax rates in its reply submission. Finally, the Board is not convinced that the facts in the Grimsby proceeding are relevant to the facts in this case, particularly as elements of that case were subject to a settlement proposal.

The Board agrees with the submission of Board staff that Midland should use the income tax rates shown in the table entitled "Minimum Income Tax Rates in Percentages" provided in Board staff's submission based on in the Board's decision in the PILS Combined Proceeding on page 17.

The Board notes that Midland agrees with Board staff with regard to the CDM issue and has undertaken to file all necessary revisions to the models to adjust for this issue.

The Board therefore directs Midland to enter (i.e., over-ride the formulas) in the SIMPIL models for the years 2001 to 2005 on sheet TAXCALC the income tax rates as shown in the table "Minimum Income Tax Rates in Percentages" in the decision of the Board in the combined proceeding, update its continuity schedule, and re-file the 2001 to 2005 active Excel SIMPIL models to support the entries in the continuity schedule.

Subject to the filing of this information, the Board approves a one-year disposition period, May 1, 2012 to April 30, 2013. The Board is not convinced that the five-year disposition period appropriately aligns the issue of intergenerational equity and rate volatility, particularly when credit balances are to be repaid to customers. Moreover, Midland has provided no evidence whatsoever to support its claim that a shorter disposition period "could move the utility in the direction of financial hardship".

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 is 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 RRR data to be reported to the Board in August.

IMPLEMENTATION

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

The Board expects Midland to file a draft Rate Order, including all relevant calculations showing the impact of this Decision on Midland'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, updated SIMPIL models and continuity tables to support the claim for disposition of account 1562 Deferred PILs and LRAM calculations showing the derivation of the final rate riders to recover the approved LRAM amount.

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

THE BOARD ORDERS THAT:

1. Midland 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 and Order within 7 days of the date of issuance of this Decision and Order.
2. Board staff and intervenors shall file any comments on the draft Rate Order including the revised models and proposed Tariff of Rates and Charges with the Board and forward to Midland within 7 days of the date of filing of the draft

Rate Order.

3. Midland shall file with the Board and forward to intervenors responses to any comments on its draft Rate Order including the revised models and proposed Tariff of Rates and Charges 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. Midland 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 Midland any responses to any objections for cost claims within **28 days** from the date of issuance of the final Rate Order.
4. Midland 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-2011-0182**, be made through the Board's web portal at, 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. 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