



# **ONTARIO ENERGY BOARD**

## **STAFF SUBMISSION**

**2009 ELECTRICITY DISTRIBUTION RATES**

**PUC Distribution Inc.**

**EB-2008-0208**

**February 2, 2009**

## INTRODUCTION

PUC Distribution Inc. ("PUC") submitted an application on November 6, 2008, seeking approval for changes to the rates that PUC charges for electricity distribution, to be effective May 1, 2009. The application is based on the 3<sup>rd</sup> Generation Incentive Regulation Mechanism ("3<sup>rd</sup> Gen. IRM").

The purpose of this document is to provide the Ontario Energy Board (the "Board") with the submissions of Board staff based on its review of all the evidence submitted by PUC.

## PAYMENT IN LIEU OF TAXES (PILs)

### Background

On December 13, 2007, the Ontario government introduced its 2007 Ontario Economic Outlook and Fiscal Review. Bill 44, the enabling legislation, received Royal Assent on May 14, 2008, and was promulgated in The Ontario Gazette on May 24, 2008. The resulting tax changes affecting the electricity distributors are listed below:

#### Effective January 1, 2007

##### *Small Business Credit*

- Threshold increased from \$400,000 to \$500,000
- Claw-back rate decreased from 4.67% to 4.25%

##### *Ontario Capital Tax*

- Reduced from 0.285% to 0.225%
- Deduction increased from \$10,000,000 to \$12,500,000

#### Effective January 1, 2008

##### *Ontario Capital Tax*

- Deduction increased from \$12,500,000 to \$15,000,000

The Board's Decision in EB-2007-0931, PUC's 2008 cost of service application ("2008 CoS"), was issued on May 22, 2008, prior to Bill 44 being enacted. Accordingly, PUC's revenue requirement was calculated on the tax rates that existed prior to the enactment of Bill 44.

## Discussion and Submission

Board staff notes that some 2008 CoS proceedings required more time to process than others. As a results, some applications that were filed with the Board at around the same time as PUC filed its 2008 CoS application had their Decisions issued after May 24, 2008, with their resulting electricity distribution rates reflecting the lower tax rates. Board staff submits that for consistency and fairness across electricity distributors, the difference in Capital Tax PUC is collecting in its distribution rates as a result of its 2008 CoS Decision having been issued before May 24, 2008, should be removed as of May 1, 2009. Board staff also submits that the additional amounts PUC collected in the 2008 rate year should remain with PUC, as it appropriately reflected the Board Decision (EB-2007-0931) for that rate year.

In Board staff's submission, PUC's distribution rates should be adjusted to reduce the revenues collected by \$18,371. This amount corresponds to the difference between \$87,265 (the Ontario capital tax calculated on page 14 of PUC's 2008 CoS rate order submission dated June 17, 2008) and \$68,894 (the Capital Tax calculated in cell E128 of Sheet F1.1 of the 2009 3<sup>rd</sup> Gen. IRM Supplementary Filing Module). This difference is the result of changes to the Ontario capital tax provisions only; changes to the small business credit provisions did not affect PUC's total PILs. For ease of reference, the table below details the calculation of the 2008 Ontario capital tax performed in the 2009 3<sup>rd</sup> Gen. IRM Supplementary Filing Module.

### PUC's Ontario Capital Tax Following the Enactment of Bill 44

Item	Description	Reference	Amount / %
(1)	Taxable capital	EB-2007-0931	\$45,619,473
(2)	Deduction from taxable capital	\$15,000,000	-\$15,000,000
(3)	Net taxable capital		\$30,619,473
(4)	2008 Ontario capital tax	(3) * 0.225%	\$68,894

Board staff asks the applicant to respond to staff's proposed decrease of \$18,371 to revenues collected by its distribution rates. Board staff also invites the applicant to contact Board staff for assistance in reflecting this proposed change in PUC's Excel models, if it agrees to the proposed adjustment.

Board staff's proposed adjustment of \$18,371 is in addition to the tax sharing required from the reduction in the federal tax rate from 19.5% to 19% effective January 1, 2009. As calculated in cell G148 of Sheet F1.1 of the 2009 3<sup>rd</sup> Gen. IRM Supplementary Filing Module, this tax savings will amount to \$28,679, with half to be returned to customers through a rate rider.

All of which is respectfully submitted.