Ontario Energy Board

Commission de l'énergie de l'Ontario

EB-2008-0234

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 Lakeland Power Distribution Ltd. for an order approving or fixing just and reasonable rates and other charges for the distribution of electricity to be effective May 1, 2009.

BEFORE: Cathy Spoel
Presiding Member

Pamela Nowina
Member and Vice Chair

DECISION AND ORDER

BACKGROUND

Lakeland Power Distribution Ltd. ("Lakeland" or the "Applicant") filed an application with the Ontario Energy Board on September 15, 2008, under section 78 of the *Ontario Energy Board Act, 1998*, seeking approval for changes to the rates that it charges for electricity distribution to be effective May 1, 2009. Lakeland is the licensed electricity distributor serving the Municipalities of Bracebridge, Huntsville, Burk's Falls, Magnetawan and Sundridge.

Lakeland is one of about 80 electricity distributors in Ontario that are regulated by the Board. In 2006, the Board announced the establishment of a multi-year electricity distribution rate-setting plan for the years 2007-2010. In an effort to assist distributors in preparing their applications, the Board issued the *Filing Requirements for Transmission and Distribution Applications* on November 14, 2006. Chapter 2 of that document outlines the filing requirements for cost of service rate applications, based on a forward test year, by electricity distributors.

On January 30, 2008, as part of the plan, the Board indicated that Lakeland would be one of the electricity distributors to have its rates rebased for the 2009 rate year. Accordingly, Lakeland filed a cost of service application based on 2009 as the forward test year.

The Board assigned file number EB-2008-0234 to the application and issued a Notice of Application and Hearing dated September 26, 2008. The Board approved four interventions: the Association of Major Power Consumers in Ontario (AMPCO), Energy Probe, the School Energy Coalition (SEC), and the Vulnerable Energy Consumers Coalition (VECC). Board staff submitted interrogatories and also made submissions. AMPCO did not submit final submissions. The Board determined that this application would be decided by way of a written hearing. The hearing closed with filing of Lakeland's reply argument on March 16, 2009.

The full record of this proceeding is available at the Board's offices.

In its original application, Lakeland requested a revenue requirement of $5,672,375 for the 2009 test year to be recovered in distribution rates effective May 1, 2009. The resulting requested rate increase was estimated as a 17.9% increase over 2008 on the delivery component of the bill for a residential customer consuming 1,000 kWh per month.

The following aspects of Lakeland's Application for rates were accepted by all parties.

- Asset Management
- Service Reliability
- Transformer Ownership Allowance

The Board accepts the Applicant's evidence on these matters and the resultant rate consequences.

THE ISSUES

The issues listed below were raised in the submissions filed by Board staff and the intervenors (Energy Probe, SEC, and VECC) and are addressed in the following sections of the Decision:

- Load Forecast
- Operating Costs
- Payments in Lieu of Taxes
- Rate Base, Working Capital and Capital Expenditures
- Depreciation and Smart Meters
- Capital Structure and Cost of Capital
- Revenue Offsets and Line Losses
- Cost Allocation and Rate Design
- Deferral and Variance Accounts

LOAD FORECAST

The Applicant determined the 2008 Bridge Year and 2009 Test Year customer count by class by utilizing historic data. Lakeland also determined the kWh forecast – and the kW forecast for appropriate classes – by customer class and presented variance analyses in support of the forecasts.

The Applicant provided additional information in response to two rounds of forecasting interrogatories. In response to Board staff Interrogatory #1, Lakeland indicated that it would not update its load and revenue forecasts as a result of the current economic situation in Ontario. Lakeland also filed a revised forecasting exhibit which provided additional clarity, but left the initially-filed forecast intact.

In response to VECC Interrogatory #4, the Applicant:

- indicated that the actual customer count as of October 2008 exceeded the 2008 forecast for almost all customer classes;
- showed that the actual customer count for the residential class in October 2008 exceeded the 2009 forecast; and
- provided an alternate slightly-higher load forecast using a more up-to-date economic projection.

In reply to Board staff Interrogatory #25, the Applicant stated that an incorrect loss factor had been used in converting from wholesale load to billed load. While this error had the effect of increasing its forecast by some 3%, as a mitigation strategy, Lakeland proposed maintaining its filed load forecast. In addition, in its reply to Board staff Interrogatory #23, Lakeland confirmed that the anticipated effects of its CDM program had not been reflected in the forecast.

Board staff noted in its submission that the omission likely increased the load forecast slightly.

<u>Methodology and Model</u>

Using time-series analyses, the Applicant forecast the number of customers by rate class and then developed the weather-normalized load forecast in a three-step, top-down process:

- first, a total system weather-normalized *purchased* energy forecast was developed based on a multifactor regression model;
- second, the weather-normalized purchased energy forecast was converted to a weather-normalized *billed* energy forecast by using a historic loss factor; and
- third, a forecast of *billed energy by rate class* was created based on a forecast of customer numbers and their historic usage patterns.

For the rate classes with weather-sensitive load, the forecast billed energy was adjusted to ensure that the total of the billed energy forecast by rate class was equal to the previously-obtained total weather-normalized billed energy.

<u>Results</u>

The customer count historic growth was 0.8% per annum which is the same value as the forecast. The 2009 forecast customer count is 9,303. The historic energy growth was 1.4% per annum, whereas the forecast load shows a negative 0.3% per annum growth. The 2009 forecast load is 225.9 GWh.

Board staff submitted that the Applicant used a sound weather-normalized load forecasting methodology, however, the resulting customer count was slightly low. Also, primarily due to the low loss factor utilized, the forecast load was most likely high. Given Lakeland's intended mitigation strategy, Board staff submitted that the Board should accept the filed forecast.

Energy Probe provided an extensive analysis in its submission and noted numerous concerns about the Applicant's methodology. These concerns included:

- the Applicant's failure to adequately differentiate between the various customer classes when developing the econometric equation used to estimate the total purchased load;
- the introduction of a bias for weather sensitive classes when converting from total purchased load to total billed load; and
- the introduction of weather-adjustment approximations when apportioning the total billed load to individual customer classes.

Energy Probe recommended a number of changes to the methodology and specific adjustments to the forecast that would see both the customer count and energy forecast increased.

VECC concurred with a number of Energy Probe's concerns and also identified several other issues it had with the Applicant's methodology. In particular, VECC:

- disagreed with the method used to determine historical trends;
- was concerned with the inclusion of year 2001 data (that the Applicant had acknowledged were less reliable than its other data);
- identified corrections that should be made to the methodology; and
- proposed specific increases to the customer count and load forecast.

In Reply, the Applicant acknowledged that the process of developing a load forecast for a cost of service application is an evolving science for electricity distributors. While the Applicant stated that it expects to improve its methodology in future cost of service applications, it submitted that its load forecasting methodology was reasonable and noted that it had patterned this on the Board-accepted methodology used by Toronto Hydro-Electric System Ltd. (Toronto Hydro) (EB-2007-0680). Lakeland identified the shortcomings it saw in the methodological approach proposed by Energy Probe. While acknowledging the accuracy of some of the suggested adjustments, Lakeland stated that it did not support applying these adjustments to its customer count or energy forecast.

Board Findings

The Board accepts the Applicant’s load forecasting methodology (similar to that used by Toronto Hydro); a methodology previously accepted by the Board as satisfactory. The Board accepts the Applicant’s statement that it expects to improve its load forecasting methodology in future cost of service rate applications by taking into consideration comments made by parties in this application and in other cost of service rate applications.

The Board disagrees with Energy Probe’s suggested changes to the Applicant’s methodology. The Board finds many of the suggested changes are impractical, given the current stage in the evolution of distribution load forecasting methodology in the Province and without the benefit of a substantial base of smart meter data.

Although the Board acknowledges that there may be minor inaccuracies in the calculation of Lakeland’s load forecast, the Board accepts the load forecast for the purpose of setting rates in this application.

OPERATING COSTS

Operating costs include Operating, Maintenance & Administrative (“OM&A”) expenses, depreciation and amortization expenses.

Operating costs also include interest charges on the Applicant’s debt. These are dealt with in the cost of capital section of the Decision.

OM&A Expenses

The table below shows the components of Lakeland’s proposed OM&A expenses for 2009 compared to previous years.

OM&A Expenses ($)

	2006 Board Approved	2007 Actual	2008 Bridge Year	2009 Forecast
Operations	94,205	197,461	223,773	223,674
Maintenance	621,624	593.016	835,279	927,043
Billing & Collecting	610,994	606,167	647,111	655,137
Community Relations	15,320	17,610	8,467	11,255
Administrative & General (excl. LV)	878,903	898,023	988,152	1,036,938
TOTAL	**2,221,046**	**2,312,277**	**2,702,782**	**2,854,047**

The evidence showed an increase in total OM&A expenses of 23.4% in 2009 from 2007 actual.[1] The issues raised in the submissions by Board staff and the intervenors were focused on the specific cost areas summarized below.

Specific Cost Areas

Lakeland Holding Ltd. Costs

Lakeland Holding Ltd. is owned by the municipalities of Bracebridge, Burk's Falls, Huntsville, Magnetawan, and Sundridge. Lakeland Holding Ltd. provides services to Bracebridge Generation Ltd., Lakeland Power Distribution Ltd. and Lakeland Energy Ltd. The services provided are those of the CEO, CFO, COO, Accounting/Benefits Administration, that of a Service Manager and an Accounting Associate.

The Applicant submitted that the costs of Lakeland Holding Ltd. are allocated to the three companies which it serves using time sheets. Lakeland provided a table of the

[1] Total OM&A excludes PILs and property taxes.

time allocations for 2007[2] which showed that 8,546.5 hours were allocated and of those hours, 5,872.0 were based on hours committed to the three companies, while 2,674.5 were unallocated and remained with Lakeland Holding Ltd. These 2,674.5 hours were then re-allocated to the three companies resulting in all hours for 2007 being allocated to the three companies that Lakeland Holding Ltd. serves.

Energy Probe, supported by SEC and VECC, argued that the re-allocation should not be permitted and that the costs of the unallocated hours should remain with the Lakeland Holding Ltd. Energy Probe determined the impact of removing the hours to be a $145,946 reduction in OM&A.

In Reply, Lakeland provided additional detail on the unallocated hours as shown in the table below:

Vacation/Statutory Holidays	2,284.5 hours
Management Meetings	215.0 hours
Board Meetings	166.0 hours
Shareholder Meetings	9.0 hours

Lakeland pointed out that under the Affiliate Relationships Code (ARC) these costs could have been charged to the distribution utility on a fully allocated basis, including a return.

Regulatory Costs

Lakeland provided a table showing regulatory costs from 2006 to 2011, and identified the costs as either on-going or fixed.[3] The cost for the 2009 rates re-basing application was forecast to be $124,000. Board staff questioned certain 2008 costs of $2,119 labeled, “Reallocation rate application costs“. Lakeland stated that this reallocation was required to smooth the costs incurred in the bridge year and test year 2009 for the 2009 COS application, over four years. Lakeland further

[2] Energy Probe Interrogatory #37
[3] Board staff Interrogatory #7

pointed out that the four years used were bridge year 2008 to 2011 rather than over the forecast period of 2009 to 2012.

Included in the $124,000 total were one-time costs of $65,000, identified as legal and consulting costs. Energy Probe submitted that since there were no technical conferences and no oral hearing, these costs could be reduced by $20,000. In addition, Energy Probe pointed out that, as the Board had announced that the 3rd generation IRM was to include a rebasing year plus 3 years, the annual amount should be $26,000 ($104,000 divided by 4 years, rather than 3). VECC supported the Energy Probe arguments. In Reply, Lakeland agreed to this reduction.

Electrical Safety Authority Fees

Lakeland forecast the Electrical Safety Authority ("ESA") fees to be $47,129 for the test year. In response to Energy Probe's interrogatory, the Applicant pointed out that this forecast was erroneously based on applying the ESA rate to gross revenues, when in fact they should have been applied to distribution revenues only.[4] On the basis of this evidence, Energy Probe argued for a reduction in ESA costs of $22,700. VECC supported the Energy Probe arguments. In Reply, Lakeland agreed that the ESA fee should be reduced by $22,700.

Bad Debt

Lakeland forecast a bad debt expense of $35,000 for 2009, the same level as in the bridge year. For 2006, the bad debt provision was $31,000 and in 2007 it was $29,000.

Energy Probe, supported by SEC and VECC, argued that only $12,000 of bad debt had been recorded to date in 2008, and stated that $15,000 would be a more reasonable number. Energy Probe also mentioned that Lakeland had hired a part time collections person which would help to reduce the level of bad debt expense. In Reply, Lakeland pointed out that in a time of uncertain economic conditions, it did not feel that it was a prudent time to reduce the level of bad debt expense from the level for which it applied.

[4] Energy Probe Interrogatory #35

Office Supplies and Expenses

Lakeland allocates office supplies and expenses among the three companies (Bracebridge Generation Ltd., Lakeland Power Distribution Ltd. and Lakeland Energy Ltd.) based on a percentage of time spent. The Applicant's rationale was that supplies are utilized in the same ratio as time spent working in each company.[5] For 2009, these expenses are forecast to be $94,496, an increase of 28% over 2008. This forecast was based on the average of the past three years.[6] Energy Probe, supported by SEC and VECC, proposed that the increase should be held to 10%. Lakeland replied that certain software maintenance fees were not included in the original estimate for the bridge year and that it wished to maintain the current forecast.

International Financial Reporting Standards

Lakeland did not forecast costs for International Financial Reporting Standards ("IFRS") in their application. In response to a Board staff interrogatory, the Applicant provided an estimate for IFRS of $120,000. Lakeland pointed out that they would spread these costs over 4 years.[7] In Reply, Lakeland indicated that it wished to submit a revision to the total OM&A costs to include only one quarter of this fee or $34,000.

Board Findings

Lakeland Holding Ltd. Costs

As vacation and statutory holidays are directly related to employee compensation, the Board finds that it is reasonable that they be allocated in the same way as the hours tracked and allocated to the three companies. This has the same effect as the more typical approach of applying these charges as a burden to the labour charge. The Board therefore approves these costs.

The Board directs that in future applications, Lakeland should ensure that the allocation of labour costs includes the costs for vacation and benefits to increase the accuracy in tracking these costs.

[5] Board staff Interrogatory #9 d)
[6] Energy Probe Interrogatory #35 a)
[7] Board staff Interrogatory #6 d)

As for the remaining allocated hours, it is not clear what the purpose of these meetings were, or which of the business units benefited from these meetings. However, these costs are not material, and therefore the Board will accept the costs of Lakeland Holdings Ltd. as submitted by the Applicant.

Regulatory Costs, Electrical Safety Authority Fees, Office Supplies & Expenses and Bad Debt

Based on Lakeland's acceptance of the Intervenor and Board staff submissions, the Board accepts as reasonable the expenses proposed by the Applicant for Regulatory Costs ($26,000 per year) and Electrical Safety Authority Fees ($24,429). The Board also accepts Lakeland's reply submissions regarding Office Supplies and Expenses and approves the requested amount ($94,496).

In considering the submissions on Bad Debt, the Board notes that Lakeland's Residential and GS<50 customer count is continuing to increase. Lakeland pointed out in its reply submission that these are uncertain economic times and did not feel it was prudent to reduce its bad debt forecast. The Board accepts this argument and therefore considers the Applicant's proposal reasonable in the circumstances.

International Financial Reporting Standards

As for the International Financial Reporting Standards costs, the Board had difficulty understanding the derivation of the proposed $34,000 amount per year for four years. The Board will approve the requested $120,000 for accounting changes and higher audit fees to be spread over four years at $30,000 per year.

PAYMENTS IN LIEU OF TAXES (PILs)

The calculated PILs amount is a proxy for capital and income taxes that otherwise, would have to be paid if the distributor was not owned by a municipality or the Ontario government. The final PILs allowance for ratemaking purposes is determined after the Board makes its findings on other relevant parts of the Applicant's application.

Energy Probe submitted that Lakeland should calculate its income and capital taxes using the most recent information available including any changes announced in the recent federal budget and the provincial budget released on March 26, 2009, including any associated taxable income thresholds.

Board staff submitted that Lakeland's PILs expense claim was not calculated using the established methodology and guidelines found in Chapter 7 of the Board's 2006 Electricity Distribution Rate Handbook, and in the accompanying PILs model for the 2006 applications. Board Staff argued that this resulted in Lakeland claiming a much higher PILs expense than should have been the case.

Board staff maintained that the difference in the two PILs amounts (as calculated by Board staff and Lakeland) arises from Lakeland's starting point to calculate PILs expense of utility income before taxes of $965,096. This amount was derived from a revenue deficiency exhibit[8] that calculated an incorrect deficiency. When this deficiency was added to the 2009 test year revenue, it increased taxable income, and resulted in higher income taxes than the Board's guidelines would indicate.

Board staff submitted that Lakeland should calculate the PILs expense using the appropriate starting point and gross-up methodology, as found in the Board's 2006 application Model and Handbook. This view was echoed in the SEC and VECC submissions. SEC also indicated that the revised amount for regulatory net income should be $537,581 based on the Board's revised ROE of 8.01%.

Energy Probe submitted that since Lakeland's forecasted regulatory taxable income is less than $1.5 million for the 2009 Test Year, the PILs calculation should reflect the provincial small business income tax rates. In response to Energy Probe Interrogatory #28, the Applicant indicated that the total income tax calculated using the provincial small business income tax rates reduces the income tax from the filed[9] amount of $379,633 to $364,776.

In Reply, Lakeland submitted that its "Top Down" approach is consistent with the Board's long standing methodology termed the "Regulatory Gross-up" method. The Top Down approach assumes revenues and cost are known and that taxable income can be determined to calculate income taxes in a manner similar to the process used to submit tax returns to the Ministry of Finance. The "Regulatory

[8] Exhibit 7, Tab 1, Schedule 1
[9] Exhibit 4, Tab 3, Schedule 1

Gross-up" method assumes ROE is adjusted for items such as depreciation and capital cost allowance. The tax rate is then applied to the adjusted ROE and the result is grossed up with the tax rate to determine PILs.

Lakeland submitted that its calculations show that the top down and regulatory gross up approach provide the same results. Accordingly, its PILs amount should be $349,723 based on results of this approach.

Board Findings

The established Board methodology to calculate PILs was most recently confirmed in 2006 EDR through the use of the PILs model. Lakeland filed a 2006 EDR application, used the PILs model, and did not file evidence that the model produced an incorrect result.

While the Applicant has provided different calculations to explain its PILs request, it has not provided evidence to show that its estimate is more reasonable than that produced by the Board's methodology. A comparison of actual taxes paid over the years with amounts generated by the Board's methodology might have supported Lakeland's claim that $349,723 is a more appropriate number.

The Board directs Lakeland to calculate the PILs expense using the appropriate starting point and gross-up methodology found in the Board's 2006 application model and Handbook when it prepares its 2009 Draft Rate Order.

Capital Tax

In its submission, Energy Probe disagreed with Lakeland's split of the $15 million Capital Tax exemption limit. Lakeland proportioned an amount of $10,833,559 out of the $15 million to calculate its capital tax amount.

Energy Probe pointed to Section 7.2.2, part ii of the 2006 EDR Handbook which states, "Where the applicant is a member of a larger corporate group, the full provincial capital tax exemption will be prorated among the regulated entities in that group." Based on Lakeland's response to Energy Probe Supplemental Interrogatory #42, Energy Probe argued that Lakeland has no regulated entities; although Bracebridge Generation is licensed, it is not regulated by the Board. Energy Probe submitted that Lakeland should use the full $15 million exemption in its capital tax calculation. Accordingly, the capital tax would decline from $10,499 to $1,124.

In Reply, Lakeland indicated that it split the $15 million among all the PILs paying affiliates in the LPDL group of companies. It maintained that its 2006 EDR rate application was based on the same methodology and submitted that its capital tax calculation and exemption split should remain as filed.

Board Findings

The Board accepts Lakeland's position on the allocation of the capital tax exemption limit as filed in the Application.

Capital Cost Allowance

Energy Probe expressed satisfaction with the Capital Cost Allowance ("CCA") calculations provided by Lakeland to correct the entries posted in Class 1 in place of Class 47 for 2005, 2006 and 2007. As a result of this correction, Lakeland calculated a total CCA amount for 2009 of $971,769, an increase of $46,865 over the amount in the original evidence[10].

Energy Probe also submitted that as a result of changes announced in the 2009 Federal Budget, the CCA deduction for computers and system software in Class 50 acquired after January 27, 2009 and before February, 2011 had increased from 55% to 100%. In addition, the half-year rule had also been eliminated. In other words, businesses would be able to fully deduct the cost of computers and systems software in 2009.

Energy Probe calculated a reduction of $8,000 to the revenue requirement as a result of the change in allowable deductions under Class 50.

In Reply, Lakeland agreed to update any changes as a result of the 2009 Federal Budget.

[10] Exhibit 4, Tab 3, Schedule 3, page 2

Board Findings

The Board directs Lakeland to make the appropriate changes in revenue requirement and allowable deductions as a result of the 2009 federal budget.

RATE BASE AND CAPITAL EXPENDITURES

Lakeland requested approval of a rate base of $15,499,710 for the 2009 Test Year. This represented an increase of 2.1% ($315,060) over 2007 and an increase of 1.7% ($256,285) over 2006. The following issues are addressed in this section:

- Capital Expenditures
- Working Capital Allowance

Capital Expenditures

As shown in the table below, Lakeland forecast capital expenditures of $1,685,160 for 2009 in its original evidence. This represented an increase of 73% over 2008 capital expenditures.

Capital Expenditures, 2007- 2009

	2007 Actual	2008 Bridge	2009 Test
Capital Expenditures	$844,283	$974,788	$1,685,160
% change from prior year		15%	73%

Major expenditures included upgrading of infrastructure and replacement of service vehicles. One significant expenditure item for 2009 includes a 10 MVA distribution station ($500,000).

In response to Energy Probe Interrogatory #11, the Applicant made significant revisions to its 2008 and 2009 capital expenditures forecast. It reduced its proposed 2008 capital expenditures and increased its 2009 capital expenditures. The Company proposed to defer some projects to 2009 and purchased vehicles much earlier than expected moving the budgeted amounts between the two years.

In its submission, Energy Probe indicated that it was not clear whether the increase in distribution station costs of $173,000 as noted in the update was net of the increase in capital contributions related to the project. Energy Probe also submitted that the increase in expenditures related to line transformers lacked justification.

Energy Probe submitted that given worsening economic conditions, there may not be a need for the original net $500,000 expenditure for the distribution station. Energy Probe submitted that the Board should establish a variance account for the net expenditures that actually come into rate base associated with this expenditure, as this would provide protection to ratepayers in the event the project is delayed.

VECC noted that while distribution plant spending totaled $406,000 as of October 2008, Lakeland's distribution plant spending had been revised to $578,000 for the year. VECC calculated average monthly spending to be $40,600 for the first 10 months of the year and noted that spending in the last two months of the year would average $86,000, essentially more than doubling in the last two months. VECC expressed the possibility that this could be a year-end surge to hit a specific spending target.

Similar to Energy Probe's argument, VECC submitted that the revised increase in distribution plant expenditures had not been adequately justified and requested the Board to deny the augmented capital spending for the Test Year of $293,000 in Lakeland's revised 2009 forecast.

VECC submitted that where there is a significant spike in capital spending forecasts towards the end of the Bridge Year, the Board should consider either:

- Reducing the projected 2008 capital spending to a more reasonable level;
- Prescribing a rate base variance account, similar to the one proposed by Energy Probe; or
- Setting the January 1, 2009 opening balance according to the actual Net Book Value of assets in service as at that date and using this balance along with Board approved Test Year capital expenditures to determine an appropriate Test Year rate base for ratemaking purposes.

SEC's submission was similar to that of Energy Probe and VECC.

In Reply, Lakeland objected to VECC's suggestion that there was a year end surge to hit a spending target. Lakeland argued that since its service territory was a tourist area as well as heavily forested, a majority of the capital work was done in the fall of each year. Lakeland further maintained that generally capital expenditures have long lead times and as such it would be almost impossible to coordinate specific spending to occur in the last two months of the year. The Applicant clarified that the "surge" at year end referred to by the intervenors was expected to be line transformers that had been on order for over 8 months as well as the bucket truck that was on order for over 9 months.

Lakeland further argued that the downturn in the economy will actually allow aging asset projects that have been deferred due to staffing constraints to be completed in the next few years.

Referring to the 10 MVA substation project, Lakeland indicated that it has been in the planning stage since 2006 and the only reason it was deferred to 2008 was the long lead time in the manufacturing of the station. This substation will not only allow for expansion due to the two developers, but will also allow Lakeland to shift load in order to do maintenance without shutting off power. Additionally, Lakeland argued that the project was directed by developers and it was not in control of the timing of the expansion. Lakeland submitted that it was unreasonable on the part of intervenors to suggest disallowing this expenditure in rate base and not allowing the utility to earn a rate of return on this investment. With respect to the incremental cost[11] of this project, Lakeland clarified that it was not asking for the incremental amount to be added to the rate base and that it was merely a note to make parties aware of the increased costs.

Lakeland, however, did consider the comments of intervenors and submitted that it was requesting the original filed capital expenditures and not the revised amount.

Board Findings

The Board has considered the submissions of all parties and has determined that no additional adjustments to capital expenditures are required. The Board accepts Lakeland's explanation of the timing of capital expenditures and therefore does not

[11] VECC Interrogatory #11

accept VECC's argument, that there was a year-end surge with the objective of hitting a spending target in 2008. Accordingly, the Board accepts Lakeland's proposed capital expenditures for the 2008 and 2009 Test Year of $974,788 and $1,685,160 respectively.

Working Capital

Energy Probe and VECC submitted that the rate for cost of power used to calculate working capital allowance should be updated to reflect the most recent forecast available. VECC noted that the most recent forecast as shown in the Board's October 2008 Regulated Price Plan ("RPP") Report was $60.30/MWh. VECC also recommended that since distributors are not billed by the IESO for all components of the RPP price, the Board should work with distributors and the IESO to establish a common approach to determine the elements of the RPP price that should be included in the cost of power for purposes of determining working capital allowances. VECC further submitted that working capital allowances should also reflect the most recent estimate of network and connection transmission services provided by Hydro One Networks Inc. ("HONI").

In Reply, Lakeland clarified that it did not update the cost of power as it would have led to an increase in revenue deficiency and a possible 10% total bill impact. Lakeland submitted that it was up to the Board to decide on which rate to use for working capital purposes keeping in mind the rate impact on consumers.

Energy Probe also expressed concerns over the methodology used to calculate the commodity component of the cost of power. It submitted that the Board should direct Lakeland to estimate the kilowatt hours that are associated with RPP and non-RPP consumers and then apply the appropriate prices to these two different set of volumes to calculate the cost of power component of working capital allowance.

In Reply, Lakeland argued that the price was an average, applied to the total estimated load and was an appropriate methodology.

Energy Probe further submitted that Lakeland had incorrectly included the cost of property taxes (Account 6105) in the calculation of working capital allowance and that this item was not included in Appendix A of the 2006 EDR Handbook. Lakeland concurred with Energy Probe that Appendix A excludes account 6105. Lakeland however argued that in the actual 2006 EDR model issued by the Board, account 6105 was included in the working capital calculation as part of “other distribution expenses”. Lakeland sought direction from the Board as to whether the approach of the approved OEB 2006 EDR model that was used in its 2009 rate application is acceptable.

Lastly, Energy Probe reckoned that the use of the 15% level to determine capital cost allowance may be overstating the required allowance and recommended that the Applicant should be directed to undertake a lead-lag study and file it with their next rebasing application. In Reply, Lakeland submitted that the current methodology was appropriate and also submitted that conducting a lead-lag study could be expensive. Lakeland did, however, support the concept of a generic study through a consultative process led by the Board.

Board Findings

The Board notes that Lakeland has followed the Board’s Filing Requirements for Transmission and Distribution Applications which allows the utility to apply a 15% factor to derive the allowance for working capital. The Board will not require Lakeland to prepare a lead-lag study for its next rebasing application. In making this finding, the Board is mindful that for a small working capital requirement, the cost of an individual study is likely to exceed any adjustment that might result. The Board therefore finds that Lakeland’s approach of using a 15% factor to derive its working capital allowance is reasonable.

The Board directs Lakeland to update the cost of power used in calculating its working capital allowance to reflect the most recent cost of power forecast of $0.0672/kWh released by the Board on April 15, 2009.

The Board will not require Lakeland to reflect the forecast of network and connection transmission services provided by Hydro One Networks Inc. (Hydro One) as these amounts have not yet been approved by the Board.

The Board notes Energy Probe’s concerns over the methodology used to calculate the commodity component of the cost of power. The Board views this matter as a generic policy issue outside the scope of this Decision. The Board finds that property taxes are properly included in the working capital calculation as they are distribution expenses.[12]

DEPRECIATION

Energy Probe claimed that Lakeland has used significantly different depreciation rates than those in the 2006 EDR Handbook for a number of asset categories as was evident from Energy Probe Interrogatory #39. Lakeland's different rates are based on shorter life estimates related to when the five utilities merged in 2000. At that time, the opening balances of the new company were set up by account and a new determination of service life was established for each account.

Energy Probe provided a table that estimated that the impact of using the higher depreciation rates. Using the calculations in the spreadsheet, Energy Probe submitted that the Board should direct Lakeland to use standard depreciation rates for the merged assets and reduce the depreciation expense for 2009 by $162,444. Energy Probe argued that Lakeland did not submit any study that corroborates the Applicant's position that assets entered into service in 2000 or before have a shorter life than those acquired since 2000. In the event that Lakeland confirmed that some of its assets have a shorter life, Energy Probe submitted that the Applicant should bring forward a complete depreciation study at its next rebasing application.

In Reply, Lakeland clarified that when the five utilities were merged, their Net Book Value ("NBV") was used to set up the fixed asset costs rather than using gross and accumulated depreciation. The percent that the NBV was of the original cost was applied to the Board's standard depreciation rates to determine the remaining years of useful life of the assets. Lakeland disagreed with Energy Probe's view that the merged assets have a shorter life. Lakeland's view was that the assets should have been accounted for at the gross level rather than at the net level. Lakeland submitted detailed calculations showing the NBV as at September 1, 2000 to be $12,818,690 and an annual depreciation amount of $854,930. Lakeland submitted

[12] While Appendix A-4 to the Handbook shows a working capital calculation that excludes property taxes, "Distribution Expenses" is defined to include them as part of Account 6105 "Taxes Other Than Income Taxes". Section 5.4 of the Handbook states that the working capital allowance calculation includes "2004 Distribution Expenses."

that the result for the 2009 depreciation expense would be the same as that submitted in the rate application.

Board Findings

Lakeland and Energy Probe both provided evidence in their submissions supporting their respective positions.

Lakeland claimed that it used the NBV of the merged assets rather than accounting for them at the gross level. It has nevertheless claimed that this would not make a difference for the 2009 depreciation expense. Lakeland has not provided sufficient evidence to show that assets accumulated after 2000 followed the Board's methodology and that the result for the 2009 depreciation expense would be the same as that submitted in the rate application.

At the same time, Energy Probe's evidence has used the 2009 opening balance as the starting point rather than 2000 which was the year that assets were booked at NBV. Energy Probe submitted that the appropriate depreciation expense for 2009 is $810,940 while the expense claimed by Lakeland is $970,000 as evident from Lakeland's response to Energy Probe Interrogatory #39.

It appears to the Board that Energy Probe's recommended depreciation amount is too low considering that (a) the depreciation expense in 2000 was $854,930, and, (b) the 2009 NBV of $12,851,963 is higher than it was in 2000.

At the same time, the Board feels that Lakeland has not provided sufficient evidence to show that its depreciation claim of $970,000 is more appropriate, or that it has used the standard depreciation rates for assets added after 2000.

As a result, the Board deems $900,000 as a reasonable estimate of depreciation expense for the 2009 Test Year and directs Lakeland to provide updated depreciation evidence, addressing the above concerns, for the period from the 2000 year end to the historic year in its next cost of service rate application.

Smart Meters

In its application, Lakeland requested approval to continue the smart meter rate adder of $0.25 per metered customer per month.

Board Findings

The Board approves Lakeland's request for continuation of the smart meter rate adder of $0.25 per month per metered customer. It is understood that Lakeland will be filing a separate smart meter application at a later date.

CAPITAL STRUCTURE AND COST OF CAPITAL

The Board's policies with respect to capital structure and cost of capital are set out in its *Report on Cost of Capital and 2nd Generation Incentive Regulation for Ontario's Electricity Distributors*, issued December 20, 2006. Lakeland submitted that its proposals were consistent with Board policy and appropriately reflected the Board's Cost of Capital Parameter Updates for 2009 Cost of Service Applications issued on February 24, 2009. Lakeland's proposed capital structure and cost of capital are set out in the following table.

Capital Component	Total Capital Structure (%)	Cost rate (%)
Long-Term Debt	52.7	5.16
Short-Term Debt	4.0	1.33
Equity	43.3	8.01
Total	100.0	

Board Findings

The Board accepts Lakeland's proposed capital structure and cost of capital. The proposal is consistent with Board policy and reflects the updated cost rates established by the Board.

REVENUE OFFSETS AND LINE LOSSES

Revenue Offsets

Lakeland's forecast of revenues that offset the requirement for distribution rate revenue is $407,336, a significant decrease from the 2007 actual amount of $508,125.

The forecast includes revenue from Specific Service Charges, Late Payment Charges, Rent from Electric Property, Miscellaneous Non-operating Income and revenue from the Standard Supply Service administration charge. There were no submissions disagreeing with these components of the revenue offset or the proposed charges.

Lakeland's proposed revenue offset included no forecast revenue from Interest and Dividend Income in either the bridge or test year, compared with $94,463 actual in 2007. Energy Probe submitted that the forecast of the bridge year revenue to October 2008 was already $57,000, not including interest on deferral and variance account balances, and that the test year forecast should be increased to $68,000. Board staff submitted that Lakeland's explanations of the revenue offset were generally satisfactory, but did not make a submission specifically on the forecast of Interest and Dividend Income. In its reply submission, Lakeland affirmed that its forecast did not include deferral and variance account interest revenue, but it did not address Energy Probe's submission as it relates to interest and dividend revenue outside of those accounts.

Board staff noted that the net income from Non-Utility Operations had decreased, but submitted that Lakeland had provided an adequate explanation of the decrease.

Board Findings

The Board finds that the revenue from Specific Service Charges is reasonable as it contributes to the Revenue Offset amount.

The Board notes that Lakeland does not include interest derived from deferral and variance accounts ("DVA") balances in its revenue offset and agrees that the revenue offset should not include the interest income from DVA. However, Lakeland should include any interest income that is not associated with DVA in its revenue offset, and therefore the Board directs Lakeland to update its 2009 Revenue Offset forecast to include interest income.

The Board notes that, according to the response to Energy Probe Interrogatory #23, Lakeland indicated that interest recorded up to October 2008 amounted to approximately $57,000. The Board directs Lakeland to forecast its average balance in its sub-account 4405 that is not associated with DVA, and to use an interest rate of 1.33% to calculate this component of the Revenue Offset.

Line Losses

Lakeland proposed an increase to its total loss factor (TLF) for secondary metered customers < 5000 kW from the current approved 1.0428 to 1.0614. Board staff submitted that the increase of nearly 2% is in the nature of a correction to the previously approved factor.

Lakeland provided a five-year history of its Distribution Loss Factor (DLF) and its Supply Facilities Loss Factor (SFLF), and stated that its proposed TLF is equal to the average product over this period. Board staff submitted that the proposed factors are reasonable.

VECC and Energy Probe submitted that there is no trend in the values of SFLF, and therefore did not object to using the five-year average.

The intervenors noted that the average value of DLF, 1.0315, is affected by the unusually high value in the first year. Energy Probe suggested that it would be more appropriate to use the average of the more recent four years, 1.0287, and VECC suggested three years, 1.0279.

In Reply, Lakeland proposed no change from the five-year average, and submitted that a longer period yields less variation in the average value.

<u>Board Findings</u>

The Board finds the intervenor arguments to be convincing with respect to Lakeland's DLF data. It accepts the submissions of all parties that the five-year average of SFLF is appropriate, but it finds that Lakeland should use the four-year average of DLF to remove the influence of the high value in the first year. It directs Lakeland to submit the resulting TLFs for primary and secondary-metered customers in its Draft Rate Order.

COST ALLOCATION AND RATE DESIGN

The following issues are addressed in this section:

- Low Voltage Costs
- Revenue to Cost Ratios
- Rate Design - monthly fixed charges
- Retail Transmission Rates

Low Voltage Costs

Lakeland submitted a forecast of Low Voltage ("LV") costs of $656,843, based on the various sub-transmission rates that pertain to Lakeland in Hydro One's application that was before the Board. In response to submissions by Board staff and VECC, Lakeland updated its forecast to be consistent with Hydro One's current application for sub-transmission rates to be effective May 1, 2009. The updated forecast is $604,090.

Lakeland proposes to allocate the LV cost in proportion to revenue from its Retail Transmission Service – Connection rates, and to recover the cost by means of rate adders on the volumetric rates. The updated rate adders are found in Lakeland's reply submission.

<u>Board Findings</u>

In its reply submission, Lakeland provided a new estimate of its LV costs based on Hydro One's current application (EB-2008-0187) for rates effective May 1, 2009. A Decision has not been reached on that application. It is the Board's view that Lakeland should use the most up-to-date approved LV values in determining its forecast cost. The Board notes that the most recent Hydro One approved rates are those approved in the EB-2007-0681 proceeding. In addition, in that proceeding, Hydro One included a substantial Low Voltage rate rider credit to be in place for two years. As Lakeland's corresponding credit will be in place for the entire four year period of the 3rd Generation IRM process, the entire credit should not be reflected in Lakeland's LV rates.

Therefore, the Board finds that in its Draft Rate Order, Lakeland should provide an updated LV forecast based on the Hydro One LV rates approved in the EB-2007-0681 proceeding, including the effect of Hydro One's Rider # 4 at one-half of its annual value.

The Board also directs Lakeland to ensure that the updated LV cost is included in the forecast of working capital.

Revenue to Cost Ratios

2009

Lakeland filed its Revenue to Cost (R/C) Ratio Informational Filing (EB-2006-0247) with the Board. These ratios are shown in column 2 of the table below. In response to VECC interrogatories 6 and 7c), Lakeland provided an alternative run of the cost allocation model that reflects the removal of costs and revenues associated with $57,567 of transformer ownership allowance. The resulting R/C ratios are found in column 3. VECC suggested that the ratio for the General Service > 50 kW was in error as provided by Lakeland, and suggested that a ratio of 139.76% would be a reasonable correction.

Lakeland's proposed R/C ratios for 2009 are shown in column 4. For convenience, the range of ratios for each class that is found in the Board's policy document on this subject (Cost Allocation for Electricity Distributors, EB-2007-0667, November 28, 2007) is found in the final column.

Revenue to Cost Ratio [%]

1	2	3	4	5
Customer Class	**Informational Filing Run 2**	**Response to VECC IR Supplement-ary # 6**	**Applicant's Proposal: Exhibit 8/ Tab1/Sch 2**	**Board Policy Range**
Residential	98.53	99.74	100.00	85 – 115
GS < 50 kW	95.53	96.81	100.00	80 – 120
GS ≥ 50 kW	147.15	140.69	122.84	80 – 180
Street Lights	16.95	17.24	50.24	70 – 120
Sentinel Lights	24.54	24.92	52.70	70 – 120
USL	67.27	66.96	81.25	80 – 120

Board staff submitted that the ratios calculated in response to the VECC interrogatory are more valid than those from the original filing, and should be used as the starting point for adjusting rates to arrive at the proposed ratios. However, Board staff also submitted that the study was leading to anomalous results for the Un-metered Scattered Load class. Lakeland submitted that it would be preferable for the Board to test and approve the alternative methodology. No parties made a submission on VECC's proposed correction to the ratio of the General Service > 50 kW class.

Lakeland proposed a re-balancing of class revenues that would yield the ratios shown in column 4 of the table above. Energy Probe, SEC and Board staff did not object to the ratios proposed by Lakeland for 2009. VECC noted that other Board Decisions have specified an adjustment of 50% from the starting point to the nearer boundary point in the first year. In this case, the half-way point would be 43.65% for Streetlighting and 47.5% for Sentinel Lights, both lower than the ratios proposed by Lakeland.

Energy Probe and VECC submitted that the Residential and General Service < 50 kW classes are within the Board's policy range and that there is no need for

Lakeland's proposed adjustment to 100%. Both parties submitted that the quality of data and other factors do not support a precise implementation of cost allocation study results.

VECC submitted that the ratio for Un-metered Scattered Load should be increased to only the lower boundary, 80%, rather than to 81.25% as proposed by Lakeland. Energy Probe accepted Lakeland's proposal but stated that it would not object to 80%.

VECC filed a set of revenue proportions that it submitted should be used by Lakeland to design its 2009 rates. These proportions are consistent with its recommendations on revenue to cost ratios, and they also take into account changes in the relative sizes of Lakeland's customer classes that have occurred since 2006. VECC's analysis of Lakeland's revenue statistics show that the General Service > 50 kW class and the Un-metered Scattered Load have decreased compared to the other classes, and Residential in particular has increased.

2010-2011

Energy Probe, SEC, VECC and Board staff submitted that the Board should direct that Lakeland make further adjustments of the Streetlighting and Sentinel Light ratios in subsequent years to reach 70%. SEC suggested that the lower boundary of the range be reached in 2010, while Energy Probe suggested two years. Energy Probe, SEC and VECC submitted that the General Service > 50 kW class should benefit from the additional revenue gained from Streetlighting and Sentinel Lights, because it is the class with the highest ratio.

Lakeland submitted in its application that a sector-wide review by the Board is on-going so it did not include a Streetlighting ratio beyond 2009 in its application. In its reply submission, Lakeland reiterated the view that the situation should be reviewed and communicated to all applicants in future years. However, it submits that it will implement any changes directed by the Board at this time.

Board Findings

The Board accepts Lakeland's proposal for revenue to cost ratios in 2009, except for the Unmetered Scattered Load (USL) class and the General Service > 50 kW class as explained below.

The Board finds that the starting point for adjusting R/C ratios should be the ratios calculated in the response to VECC's Supplementary Interrogatory #6, shown in column 3 of the table. Therefore, the new ratios should be calculated using class revenues net of Transformer Ownership Allowance where applicable and using a total revenue requirement that does not include Transformer Ownership Allowance as an element of cost.

The Board does not include the R/C ratio for the USL class in this finding. Rather, under the Rate Design section the Board specifies a relationship between the rates for this class and the General Service <50 kW class which will affect the final R/C ratio. The Board recognizes, in light of its finding on the USL rate design below, that the ratio for the General Service ≤ 50 kW class may also be affected marginally.

The Board finds that the revenue to cost ratios for the Streetlighting and Sentinel Light classes shall be further adjusted in 2010 to move half way to the value of 70%, and in 2011 shall be set at 70%. The Board does not specify a revenue to cost ratio for the General Service > 50 kW class, but it directs that that class will benefit from the increased proportion of revenue due to the increased ratios of the two classes, because its ratio is the highest of any class.

Rate Design

Monthly Fixed Charges

Lakeland proposed to maintain the fixed:variable split constant for all classes, except for the Residential class. For the Residential class it proposed to increase the proportion of revenue from the volumetric rate and decrease the proportion from the Monthly Service Charge. Board staff and VECC submitted that Lakeland's proposal is appropriate.

Board staff pointed out that maintaining the fixed:variable split will prolong the situation in which the Monthly Service Charge for the General Service > 50 kW class is substantially above the ceiling from the cost allocation study. Staff submitted that this is appropriate, pending the completion of the Board's study of distribution rate design. SEC submitted that fixed:variable split of the General Service > 50 kW class should be lowered, to mitigate the bill impact on smaller customers within that class similar to what Lakeland proposed for the Residential class. SEC recommended that the Monthly Service Charge should be $132, in contrast to $506 in Lakeland's application.

Board Findings

The Board finds that Lakeland's application is consistent with the Board's report on cost allocation (EB-2007-0667). The Board accepts Lakeland's proposed rate design, and in particular its proposal to change the General Service $\geq$ 50 kW Monthly Service Charge and the volumetric rate (net of the Smart Meter and LV adders respectively) by a uniform percentage.

Un-metered Scattered Load

Lakeland proposed an increase in the USL Monthly Service Charge of 160%, from $14.89 to $38.78 per connection, and an increase in the volumetric rate of 109%, from $0.0097 to $0.0203 per kWh. The comparable proposed rates for the General Service < 50 kW class are $39.13 per month (net of Smart Meter adder) and $0.0118 per kWh. Board staff submitted that it would be anomalous for Lakeland to charge the USL class nearly as much per connection and nearly twice as much per kWh, compared to the GS < 50 kW class.

In its Informational Filing, Lakeland found that its customer-related costs in the Cost Allocation study were higher for a USL (per connection) was higher than for a General Service (per customer). It attributed this to a default weighting factor in the model, and by changing the factor, it found that the cost per connection was $18.08 per connection compared to $24.62 per General Service customer.

VECC submitted that the share of USL in Lakeland's total distribution revenue should decrease from 0.65% to 0.43%.

In Reply, Lakeland submitted that its proposal is reasonable with respect to the proposed fixed:variable split, but does not address the comparison with General Service < 50 kW class rates.

Board Findings

The Board notes that Lakeland's cost allocation results for this very small customer class may be overly sensitive to a seemingly innocuous input assumption in the model, and in this instance the Board is inclined to rely on a comparison with the larger General Service < 50 kW class. The Board directs Lakeland to file USL rates that will increase from the currently approved rates by the same percentages as the corresponding General Service < 50 kW rates. Lakeland shall also provide background information on the revenue to cost ratio of the USL class that results from such rates, using the model as adapted for its response to Board staff Interrogatory #31. To the extent that the USL rates calculated in this way would result in a revenue shortfall compared to the application, Lakeland may recover the shortfall from the General Service < 50 kW and USL classes.

Retail Transmission Rates

As an embedded distributor Lakeland's transmission costs are determined by the RTS rates of its host distributor, Hydro One. In its initial application, Lakeland applied to continue its current RTS rates which were approved effective May 1, 2008.

The Board issued a guideline, Electricity Distribution Retail Transmission Service Rates [G-2008-0001] on October 22, 2008 indicating the process to be used by distributors to adjust RTS rates to reflect changes in the Ontario Uniform Transmission ("UT") rates. The changes in the UT rates are shown in the following table:

Ontario Uniform Transmission Rates

	Current Rate ($/kW/month)	**Effective rate on January 1, 2009 ($/kW/month)**	**Effective increase from 2008 rates**
Network Service Rate	2.31	2.57	11.3%
Line Connection Service Rate	0.59	0.70	18.6%
Transformation Connection Service Rate	1.61	1.62	0.6%

Hydro One has applied (EB-2008-0187) for approval of RTS rates that mirror the increases in the Uniform Transmission rates shown above and that would apply to an embedded distributor such as Lakeland.

Lakeland submitted revised RTS rates (Board staff Interrogatory #36 and Supplemental #10) that would have recovered less than the forecast cost with the new wholesale rates, and noted that this would serve to offset the accumulated surplus in the related variance accounts. Board staff submitted that Lakeland should adjust its Retail Transmission Service Rates to make the disparity between its wholesale cost and its retail revenues as small as possible in the rate year, in order to minimize future variances without regard for current variance account balances. In its reply submission, Lakeland calculated RTS rates for its rate classes that would meet this objective.

Board Findings

The Board finds that Lakeland's proposal as filed in its Reply Submission, is acceptable. The Board notes that there are separate mechanisms available to recover balances in the related variance accounts.

DEFERRAL AND VARIANCE ACCOUNTS

Lakeland did not propose to recover the balances in any of its deferral and variance accounts.

In response to Board staff Interrogatory #38, Lakeland submitted a continuity schedule showing the year-by-year development of individual account balances. The 2007 year-end balances plus forecast interest amounts are shown in the following table.

Deferral and Variance Accounts

Account Number	Account Description	Total ($)
1508	Other Regulatory Assets – Sub-Account – OEB Cost Assessments	38,997
1508	Other Regulatory Assets – Sub-Account – Pension Contributions	106,086
1518	Retail Cost Variance Account - Retail	(50,419)
1548	Retail Cost Variance Account - STR	77,924
1550	Low Voltage Variance Account	(30,931)
1555	Smart Meter Capital and Recovery Offset	(1,813)
1565	CDM Expenditures and Recoveries	(17,193)
1566	CDM Contra Account	17,193
1580	RSVA – Wholesale Market Service Charge	(193,208)
1582	RSVA - One-time Wholesale Market Service	2
1584	RSVA – Retail Transmission Network Charge	(557,052)
1586	RSVA – Retail Transmission Connection Charges	(606,411)
1588	RSVA – Power (including Global Adjustment)	1,367,162
	Total (excluding shaded rows)	**152,151**

Lakeland calculated rate riders that would recover the aggregate balance in two scenarios: 1) a number of deferral and variance accounts including Retail Settlement Variance Accounts (“RSVA”), shown in the following table in unshaded rows, and 2) the same accounts without the RSVA accounts. Neither scenario includes accounts associated with Smart Meters, Conservation and Demand Management (“CDM”), or PILs.

Energy Probe did not support or oppose disposition of the account balances at this time. It submitted that balances are higher than warranted insofar as the interest rate used by Lakeland during the final months of the continuity table is higher than the rate prescribed by the Board. It also submitted that rate riders should be designed to recover the balance over two years rather than a single year as assumed by Lakeland in its calculation.

Board staff submitted that it supported disposition of the deferral and variance account balances. It did not comment on the time period for recovery.

Lakeland submitted that it would recover the balances when the Board found it appropriate.

Board Findings

The Board finds that Lakeland shall recover the balances in its deferral and variance accounts, except for those associated with PILs, Smart Meters and CDM. The Board orders Lakeland to submit in its Draft Rate Order a set of rate riders designed to recover the total amount of $152,151, over two years.

With regard to the interest rate issue raised by Energy Probe, in the future, the Board expects Lakeland to apply the appropriate Board approved interest rates to the balances in their deferral and variance accounts.

IMPLEMENTATION

The Board has made findings in this Decision which change the Applicant's proposed 2009 distribution rates. These are to be reflected in a Draft Rate Order prepared by Lakeland. This Draft Rate Order is to be developed assuming an effective date of May 1, 2009.

In filing its Draft Rate Order, it is the Board's expectation that Lakeland will not use a calculation of the revised revenue deficiency to reconcile the new distribution rates with the Board's findings in this Decision. Rather, the Board expects Lakeland to file detailed supporting material, including all relevant calculations showing the impact of this Decision on Lakeland's proposed revenue requirement, the allocation of the approved revenue requirement to the classes and the determination of the final rates. Lakeland should also show detailed calculations of the revised retail transmission rates and variance account rate riders reflecting this Decision.

The Board is concerned with the amount of time and energy that some intervenors are putting into matters of detail that are not matters of principle and are not material. This level of scrutiny has the potential to increase costs to the utility, intervenors and the Board and to increase the overall regulatory burden associated with rate setting, while not meaningfully contributing to the setting of just and reasonable rates.

RATE ORDER

A Rate Order decision will be issued after Lakeland has had opportunity to comment on any intervenor submissions to its Draft Rate Order, as set out below.

COST AWARDS

The Board may grant cost awards to eligible stakeholders pursuant to its power under section 30 of the *Ontario Energy Board Act, 1998*. When determining the amount of the cost awards, the Board will apply the principles set out in section 5 of the Board's Practice Direction on Cost Awards. The maximum hourly rates set out in the Board's Cost Awards Tariff will also be applied.

All filings with the Board must quote the file number EB-2008-0234**,** and be made through the Board's web portal at www.errr.oeb.gov.on.ca, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must be received by the Board by 4:45 p.m. on the stated date. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.oeb.gov.on.ca. If the web portal is not available you may e-mail your documents to the attention of the Board Secretary at BoardSec@oeb.gov.on.ca. All other filings not filed via the Board's web portal should be filed in accordance with the Board's Practice Directions on Cost Awards.

THE BOARD DIRECTS THAT:

1. Lakeland shall file with the Board, and shall also forward to AMPCO, Energy Probe, SEC, and VECC, a Draft Rate Order attaching a proposed Tariff of Rates and Charges reflecting the Board's findings in this Decision, within 14 days of the date of this Decision. The Draft Rate Order shall also include customer rate impacts and detailed supporting information showing the calculation of the final rates.

2. AMPCO, Energy Probe, SEC, and VECC shall file any comments on the Draft Rate Order with the Board and forward to Lakeland within 7 days of the filing of the Draft Rate Order.

3. Lakeland shall file with the Board and forward to AMPCO, Energy Probe, SEC, and VECC responses to any comments on its Draft Rate Order within 7 days of the receipt of any submissions.

4. AMPCO, Energy Probe, SEC, and VECC shall file with the Board and forward to Lakeland, their respective cost claims within 26 days from the date of this Decision.

5. Lakeland shall file with the Board and forward AMPCO, Energy Probe, SEC, and VECC any objections to the claimed costs within 40 days from the date of this Decision.

6. AMPCO, Energy Probe, SEC, and VECC shall file with the Board and forward to Lakeland any responses to any objections for cost claims within 47 days of the date of this Decision.

7. Lakeland shall pay the Board's costs incidental to this proceeding upon receipt of the Board's invoice.

DATED at Toronto, May 8, 2009

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary