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BORDEN LADNER GERVAIS

May 13, 2009

Delivered by Courier and E-mail

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, Ontario
M4P 1E4

Dear Ms. Walli:

Re: OEB File No. EB-2008-0205
Oshawa PUC Networks Inc. 2009 Incentive Regulation Mechanism Rate Application – Part II – Incremental Capital

We are counsel to Oshawa PUC Networks Inc. ("OPUCN") in the above-captioned matter. Further to our letter of May 8, 2009, please find accompanying this letter OPUCN's Reply Submission in this proceeding. Should you have any questions or require further information in this regard, please do not hesitate to contact me.

Yours very truly,

BORDEN LADNER GERVAIS LLP

Original signed by James C. Sidlofsky

James C. Sidlofsky
JCS/dp

cc: Atul Mahajan, OPUCN
Mark Turney, OPUCN
Vivian Leppard, OPUCN
Phil Martin, OPUCN
Intervenors of Record

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Vancouver • Toronto • Ottawa • Montréal • Calgary

EB-2008-0205

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 Oshawa PUC Networks Inc. for an order or orders approving just and reasonable rates and other charges for electricity distribution to be effective May 1, 2009.

PART II – INCREMENTAL CAPITAL APPLICATION

REPLY SUBMISSIONS OF OSHAWA PUC NETWORKS INC.

FILED MAY 13, 2009

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Introduction

1. In November 2008, Oshawa PUC Networks Inc. ("OPUCN") filed its 2009 Distribution Rate Application (the "Application") based on the Ontario Energy Board's (the "Board's") 3rd Generation Incentive Regulation Mechanism ("IRM") Plan. This Application included a request for an Incremental Capital Adjustment (the "Incremental Capital Application"), provided for in the Board's Report on 3rd Generation IRM ("the Report of the Board"), issued July 14, 2008 and its Supplementary Report on 3rd Generation IRM ("the Supplementary Report"), issued September 17, 2008. The Board determined that the Application would be considered in two parts. The Board released its Decision on Part I of the Application (the mechanistic 2009 IRM update and OPUCN's LRAM/SSM application) on March 20, 2009. The Board determined that it would consider OPUCN's request for an Incremental Capital Adjustment as Part II of the Application.

2. The Board conducted an oral hearing on Part II of the Application on April 6, 2009. Submissions of Board Staff, the Vulnerable Energy Consumers Coalition ("VECC") and the School Energy Coalition ("SEC") were delivered on May 4, 2009. This is OPUCN's reply submission in respect of Part II of this proceeding.

3. OPUCN has reviewed the submissions of Board Staff (the "Staff Submission"), VECC (the "VECC Submission"), and SEC (the "SEC Submission") and will address them below.

4. OPUCN maintains that the projects addressed in the Incremental Capital Application are essential and conform to the Board's criteria for approval of incremental capital expenditures, as they are incremental, non-discretionary capital projects. Those projects are:

    a. The replacement of concrete poles which have recently begun to fail, causing a major safety hazard for the public and OPUCN's employees;

b. A Distribution Reliability Improvement project to replace a feeder at the end of its engineering life. This feeder is presenting both reliability issues and safety related issues. The feeder is performing at a substandard level in terms of reliability subjecting the customers connected to it to frequent outages. The feeder was also constructed to a substandard construction practice, presenting a safety hazard to the OPUCN crews that perform work on the feeder;

c. A Mobile Work Force project needed to achieve efficiencies in service and reduce the time for "as constructed" drawings to be updated in OPUCN's GIS system. This will ensure the most up to date records are provided to field staff, minimizing the chance of errors in the field that would expose OPUCN field staff to an unsafe work environment; and

d. The elimination of Long Term Load Transfers will bring reliability and the same quality of service to those customers who are within the OPUCN service territory but currently connected to the Hydro One distribution system as to those already connected to the OPUCN distribution system.

5. OPUCN has reviewed all of these projects in light of the comments received and submits that they meet the criteria for funding using the Incremental Capital mechanism and must be undertaken in 2009. OPUCN's reasons for this are articulated in detail in the following sections of this submission.

6. OPUCN submits that as a group, the electricity distributors in Ontario are facing unprecedented challenges in the short to medium term. The Board Chair alluded to these challenges in his Statement issued on April 3, 2009 in which he noted the need for substantial utility investment "to replace aging infrastructure, deploy smart meters, connect new load, and maintain system operability and reliability". OPUCN, specifically, faces this challenge as noted on page 10 of 13 of the Incremental Capital Application: "The OPUCN distribution system is a relatively aged system requiring a substantive level of capital funding each year in order to enhance the distribution system and ensure a continued reliable supply of electricity distribution services." In the

Statement quoted above, the Board Chair noted that "electricity utilities may need greater regulatory certainty prior to making significant capital investments" which will be required in the next few years. The Report of the Board noted, on page 25, that "Staff proposed that the [incremental capital] application would substantiate the need for incremental capital due to drivers that are non-discretionary in the control of the distributor's management such as: life-cycle replacement of aging distribution plant…" OPUCN applauds the Board for prudently providing this regulatory tool as a mechanism in the rate making process. This is a new, untested process in which OPUCN has chosen to engage in order to take on projects which its management believes to be prudent and non-discretionary in order to increase the reliability and safety of the system and begin to prepare for the challenges ahead.

7. The Report of the Board and the Supplementary Report identify three criteria for eligibility for recovery of amounts through rates to fund incremental capital investment needs: materiality, need and prudence. The criteria are described as follows in Table 5 at page IV of Appendix B to the Supplementary Report:

Materiality:

The amounts must exceed the Board-defined materiality threshold and clearly have a significant influence on the operation of the distributor; otherwise they should be dealt with at rebasing.

Need:

Amounts should be directly related to the claimed driver, which must be clearly non-discretionary. The amounts must be clearly outside of the base upon which rates were derived.

Prudence:

The amounts to be incurred must be prudent. This means that the distributor's decision to incur the amounts must represent the most cost-effective option (not necessarily least initial cost) for ratepayers.

8. OPUCN submits that its Incremental Capital Application meets the criteria established by the Board for approval. OPUCN further submits that since all the criteria have been met, the Board should grant this Application and establish its commitment to regulatory certainty going forward in these challenging times for electricity distributors in Ontario.

Without a reasonable opportunity for approval of incremental capital expenditures through a regulatory process such as this, distributors may find themselves unable to invest in necessary capital projects during the IRM period, and the Board's desire for greater regulatory certainty in this regard will have been undermined.

9. This submission will discuss the projects and show how each of them meets the criteria established by the Board for funding under this mechanism. OPUCN has addressed materiality first, as a threshold matter, considering the four projects on a collective basis. OPUCN's comments on the individual projects will address the need and prudence criteria. In all cases, OPUCN has considered the submissions of Board Staff and intervenors, and has addressed them as necessary. OPUCN also relies upon its pre-filed evidence, its Interrogatory responses and its oral testimony and Undertaking responses.

DETAILED COMMENTS

The Threshold Test

OPUCN recalculated its Threshold amount to be $6,695,123 in response to Undertaking J1.1. OPUCN also recalculated the amount of capital spending which would be eligible for inclusion in this application. The calculation is reproduced below, for the Board's reference. The calculation includes the updated value of the carryover projects from 2008, and the updated price escalator of 1.18%. This calculation confirms that the revised capital application amount meets the threshold test for the Incremental Capital.

Revised 2009 IRM Capital Calculation

	MM$	
Initial IRM Application Capital Budget:	11.8	
	(1.30)	(Reduction in concrete pole replacement)
Revised Capital Budget	10.5	

Carryover Amount:	1.5	(Actual 2008 spending = $9.5 million, not $9.3 million forecast in November 2008)
Sub Total:	9.0	
Revised Threshold:	6.7	
Eligible Incremental Capital Amount:	**2.3**	
Incremental Capital Application Amount	**2.2**	

Application of the Threshold Test

10. Parties' comments on OPUCN's meeting of the materiality threshold, and OPUCN's responses, are as follows:

   a. SEC submits that "in deciding whether a utility meets the eligibility criterion, the Board must examine the utility's total capital budget for the rate year" (SEC Submission, paragraph 12). VECC similarly submits that "the utility [must] demonstrate that all of the capital spending it is proposing for 2009 is non-discretionary" (VECC Submission, pg 5).

   b. SEC submits that "an examination of the information provided [in response to Undertaking J1.6] reveals that several [projects] appear to be discretionary." (SEC submission, paragraph 13) These were identified as projects C08-203, C08-211, and C08-290. VECC submits on page 6 of its submission that projects C08-211 and C08-203 appear to be discretionary.

11. OPUCN offers the following submissions in this regard:

   a. OPUCN does not agree that the entire capital budget must be proven to be non-discretionary and finds no support for this position in the Report of the Board or the Supplementary Report. OPUCN can find no reference to any requirement for proof that the non-incremental portion of the capital budget must include only projects of a non-discretionary nature. However, even if the Board were to find that the entire capital budget must be proven to be non-discretionary, OPUCN submits that it has demonstrated that all capital spending contemplated for 2009 is non-discretionary (Undertaking J1.6).

b. The work involved in project C08-290 is the engineering and design work, along with the ordering of long lead time equipment, for the new substation for which all funding was not spent in 2008 because the construction of the substation was prudently delayed. (Response to Board Staff IR 1(b), at p. 2 of the OPUCN Responses to Board Staff IRs) As Mr. Mahajan of OPUCN stated during the Oral Hearing on April 6, 2009 in response to a question from Mr. Quesnelle regarding the construction of the substation: "We are going to look at the load, you know, sometime around the summertime and possibly we could start the work in fall, that's our expectation, but we will look at the situation sometime at the end of summer." (Tr. Vol.1, p. 42) It is imperative that the design, engineering, and ordering of long lead time equipment be performed now in order to avoid delays in building the substation once the determination is made to proceed. This project encompasses these activities.

c. In order to delay the substation project some work is necessary on the existing system. By completing the work for C08-203 and C08-211, OPUCN will replace existing undersized infrastructure with new that allows a higher capacity of energy over the existing circuit route. This work also allows the closing of a feeder loop in order to allow the back feed of the circuit from two existing substations, again to provide the required redundancy and improved reliability in the system. The circuit work will remain beneficial to the operation of the distribution system after the new substation is installed. For these reasons OPUCN considers this work prudent, in the best interest of its customers, and non-discretionary.

The Projects

Concrete Pole Replacement

12. OPUCN submits that the Concrete Pole Replacement project is non-discretionary. The poles identified as needing replacement represent a serious risk to the safety of the public and the OPUCN staff charged with maintaining them. As one would expect, in the event of a pole failure, the distribution system equipment supported on the pole typically ends up in contact with the ground presenting a very serious safety hazard to the public.

13. Parties made the following comments regarding this project:

   a. All parties agree with the need for the concrete pole replacement program in 2009 and VECC further agrees that this project is outside of the base on which 2008 rates were set. SEC states that "the Pole Replacement project is non-discretionary in that it involves a potential safety issue and therefore must be addressed in 2009". (SEC Submission, paragraph 16) VECC notes that "OPUCN proposed 2009 spending on this project can be considered both non-discretionary and prudent" and further "the spending can be considered outside the current base upon which rates are set" (VECC Submission, p. 9).

   b. VECC goes on to submit that in 2008 OPUCN underspent on its wood pole replacement program in the amount of $346,700 (VECC Submission, p. 7) and suggests that this money should now be available for replacing the failing concrete poles.

14. OPUCN offers the following submissions in reply:

   a. VECC's position concerning the availability of unspent funding is based partly on a witness statement during the oral hearing that this amount is included in the carryover amount for 2008 which was used to reduce the amount of spending eligible for inclusion in the Incremental Capital application (Tr. Vol.1, pg 57). OPUCN notes that in response to Undertaking J1.3, it supplied a more detailed list of the projects carried over from 2008 and the Wood Pole replacement program was not on this list. OPUCN made a more detailed distinction between these two classes of projects in response to Undertaking J1.7. "Although these particular projects were not completed as planned, equivalent expenditures were made on other necessary capital projects" (Undertaking J1.7). The wood pole replacement program was delayed due to emergency work but the amount approved in rate base was not left unspent. It was necessary to transfer the spending to other prudent, non-discretionary projects. The wood pole replacement will continue into 2009 and beyond. It is clear from OPUCN's evidence that the funding is not available for transfer to the Concrete Pole Replacement program.

Distribution System Reliability Improvement

15. The Distribution System Reliability Improvement project is designed to replace a feeder with substandard reliability performance and substandard construction practice. (Incremental Capital Application, p. 10 of 13).

16. Board Staff and parties made the following comments regarding this project:

    a. Board Staff notes that OPUCN confirmed that there would be savings from this project but the amount of savings is not known (Staff Submission, p. 4).

    b. Board Staff also note that "It remains unclear...if the management of Oshawa excluded this project from its 2009 budget as it was the next lowest ranking project on its list, would imply that the project is discretionary" (Board Staff submission, p. 6 of 7).

    c. VECC commented that it appeared that the issue of safety was introduced late in the proceeding and did not appear to be an original concern with this feeder (VECC Submission, p. 11).

    d. As part of its Decision in OPUCN's 2008 Rate Application (EB-2007-0150) the Board directed OPUCN to increase the overall level of reliability of the distribution system (Incremental Capital Application, pg 10 of 13). VECC submits that OPUCN has misinterpreted this directive and it does not require the contemplated level of investment (VECC submission, p. 11).

e. SEC submits that "this project also appears to be driven by the existence of an incremental capital module and does not appear to be non-discretionary" (SEC Submission, paragraph 24).

17. OPUCN offers the following submissions in reply:

a. While OPUCN believes there may be savings associated with this project, it is not in a position to provide an estimate at this time as it believes that these savings will not be material and relate only to a reduced need for emergency response. (see OPUCN response to OEB Staff Interrogatory 15(a), at p.22 of OPUCN responses to Board Staff IRs; and Tr. Vol.1, pg 95)

b. Capital projects are ranked on the basis of need and then compared to the available budget to determine those which can realistically be completed given the constraints of manpower and revenues. Mr. Mahajan expanded on this notion in the Oral Hearing. The following extract is from page 60-61 of the Transcript.

> "MR. MAHAJAN: I think in any given year, Mr. Buonaguro, we have lots of feeders that we can replace. There is only so much resource we have, not just in terms of capital but also in terms of manpower. Whether we do it in-house or we outsource it, we still have to make sure that the job gets done.
>
> On top of it, we have situations where we have to respond to missed -- you know, Region of Durham's road widening projects or any Ministry of Transportation's 401-related projects that we have to respond to.
>
> So we are constantly adjusting, but that's not to suggest that the feeders that we want to get to, which would improve our customer service and our reliability, we don't endeavor to get to those."

As a result, critical projects are excluded based on limited funds availability. OPUCN has an aging system which was largely built at the same time. The natural results of system aging include degradation in safety and reliability indices. OPUCN submits that the Incremental Capital adjustment is designed to be used in situations where non-discretionary work cannot be performed due to these types of budgetary constraints. In the Supplemental Report, the Board refers specifically to the need for investment in cases where a distributor has an aging plant, as Oshawa does. At page

25 of the Supplemental Report, the Board contemplates that "…the application would substantiate the need for incremental capital due to drivers that are non-discretionary in the control of the distributor's management such as: life-cycle replacement of aging distribution plant;…."

c. OPUCN noted in its Incremental Capital Application that "The feeder targeted for replacement in this project is constructed to an outdated standard" (page 1 of 13). This sub-standard construction is the source of both reliability and safety concerns with the feeder. OPUCN referred to safety concerns with this feeder in its response to SEC Interrogatory No. 7. "It is an aged feeder having substandard construction and needs to be rebuilt to current construction standards and design to improve the reliability of supply and increase worker safety when maintenance on the feeder is required." (See OPUCN Responses to SEC IRs, at page 3).

d. OPUCN disagrees with VECC's interpretation of the Board's directive in its Decision in OPUCN's 2008 electricity distribution rate application (Board File No. EB-2007-0510). OPUCN interprets the directive, quoted at page 10 of 13 of the Incremental Capital Application, as requiring OPUCN to make all possible investments in its distribution system to support reliability for its customers.

e. OPUCN rejects SEC's contention that OPUCN is pursuing funding for this project merely because the Incremental Capital Application process is available and not for valid reliability and safety purposes. As noted above, the Board considers life-cycle replacement of aging distribution plant to be a legitimate driver for this application and OPUCN has a severe problem with aging plant. OPUCN believes that this project fits within the Board's guidelines and is therefore eligible for inclusion in this Incremental Capital Application.

f. As noted in its Incremental Capital Application, "OPUCN believes the costs to complete this project are prudent and in the best long-term interest of its customers." Completing the project in 2009 will ensure "a significant improvement in the reliability of distribution services for the customers connected to it. This will help meet the expectations for performance improvement contained in the Rate Decision (EB-2007-0710).” (Incremental Capital Application, pg 11 of 13)

Mobile Work Force

18. The Mobile Work Force project is designed to allow timely updates of information concerning distribution system construction, maintenance, as-built drawings, and distribution system configuration. It would leverage the value of the GIS and SCADA systems installed and create value for ratepayers. There seems to be a general consensus that the project is prudent. Board Staff notes that “the evidence indicates that there may be benefits for this project to proceed at this time” (Staff Submission, page 6). VECC “concurs that the investment is prudent” (VECC Submission, paragraph 32, page 11). SEC concedes that “this project is clearly driven by a desire to achieve efficiencies within the distribution system”. (SEC Submission, paragraph 32).

19. Board Staff and parties made the following comments regarding this project:

a. Board Staff “submits that Oshawa’s management has the discretion to implement this project in a different time period…and the project can therefore be deemed ‘discretionary’”. (Board Staff Submission, page 6)

b. Board Staff also note that there “were uncertainties as to when those anticipated savings would begin to be realized” (Board Staff Submission, page 5). This uncertainty leads to the conclusion that the amount approved should be reduced by “all or a portion…of the revenue requirement associated” (Board Staff Submission, page 5) with the project. VECC shares this concern and “submits that savings should be assumed for the last half (i.e., 1 ½ years) of the IRM period” (VECC Submission, page 12). SEC concurs that “it is very likely [cost savings] will be achieved within the IRM period.” (SEC Submission, paragraph 32)

c. SEC submits “this is precisely the sort of project that the Board contemplated would be undertaken, and funded, by utilities during the IRM period…not...the sort of project that was contemplated as being eligible for an incremental capital module." (SEC submission, paragraph 32)

20. OPUCN offers the following submissions in reply:

a. OPUCN submits that the project must be started now and is non-discretionary at this time. There are a number of drivers for undertaking this project including, but not limited to, the cost savings associated with automation. The savings related to automation will either have to be achieved through normal attrition or an early retirement incentive package which obviously delays the realization of savings. As noted in the response to Board Staff IR 16(b) the project is also necessary for error reduction and safety reasons. (OPUCN Responses to Board Staff IRs, page 23) As noted in reply to Board Staff Interrogatory 17(a) "OPUCN is expecting a large number of retirements with the next five to ten years" (OPUCN responses to Board Staff IRs, at page 24). OPUCN will be losing valuable experience and system knowledge as the employee base is replaced. This knowledge is currently mitigating some of the safety and error correction problems caused by the fact that system information cannot be maintained accurately or in real time without this type of system. OPUCN has a rapidly closing window in which to implement this system, train staff, and prepare for the loss of that experience.

b. The financial outlay for this type of project occurs largely upfront. OPUCN submits that there will be no financial payback from this system for some time. As Mr. Mahajan noted during the Oral Hearing, "But let me just, Mr. Buonaguro, if I may, walk you through how the project delivers those results. It's not from day one. When you implement any of these software projects, you don't start seeing the results from day one or day ten. I mean, there's a lot of learning curve you have to go through when you implement these kinds of software projects." (Tr. Vol.1, pages 65-66). While OPUCN has contemplated a payback period of three years for this project, it is not possible to determine when that period will start. (Tr. Vol.1, page 67, line 15 to page 68, line 12) OPUCN submits that it is reasonable to assume that it will be after the end of the IRM period. This is not a technically simple project. It will be necessary to integrate the system with existing systems (which themselves are relatively new to OPUCN) in order to make it successful. OPUCN's experience with its relatively new GIS and SCADA systems is that this is a lengthy process. Training of staff is also a time-consuming process. All outside crews will have to be trained in the use of the system and the procedures developed to take advantage of it. In a utility of OPUCN's size it is not possible to take crews out of service for the length of time needed to complete training in one or two concentrated sessions. Training will have to be performed on the job and with the planned and emergency work of the utility in mind.

c. With respect to SEC's position concerning the types of projects which should be funded during the IRM period, OPUCN submits that SEC has ignored the rationale for the incremental capital module. As noted in reply to Board Staff Interrogatory 16(c), "OPUCN considers this project to be a capital improvement and not a routine recurring expenditure which would be expensed in the normal process…because of the improved safety, efficiency, and error reduction aspects of the project." (OPUCN Responses to Board Staff IRs, pg 24) OPUCN's evidence is that this is an incremental non-discretionary capital project that meets the Board's criteria for approval. Funding is not available for this project at this time in the absence of the Board's incremental capital module. As discussed above, while OPUCN has contemplated a payback period of three years for this project, it is not possible to determine when that period will start.

d. OPUCN submits that this project meets the requirement for prudency. By completing the project in 2009, an inefficient paper based process can be replaced with a highly efficient computer based process which will reduce the chances of errors in the field when responding to emergencies.

Long Term Load Transfers

21. OPUCN has 32 customers connected to the Hydro One distribution system within its territory. The project is contemplated to transfer all of these customers to OPUCN plant in 2009. This will increase system reliability for those customers.

22. Participants made the following comments regarding this project:

    a. Board Staff submits that OPUCN has not demonstrated that the project is non-discretionary in light of the Board's Decision in EB-2008-0149. In this Decision, the Board extended the deadline for the elimination of OPUCN's load transfers to 2011 (Board Staff Submission, p. 7).

    b. VECC notes that OPUCN applied to the Board to delay the project to 2011 and therefore concludes that reliability is not a major factor in the timing for this project and the project is discretionary for 2009. (VECC submission, page 10) SEC agrees with this analysis (SEC submission, paragraphs 18, 19).

    c. VECC further submits that the project "has been advanced to 2009…because the incremental capital module now provides funding for it" (VECC Submission, page 10) and it is therefore discretionary for 2009. SEC concurs with this view (SEC Submission, paragraph 22).

23. OPUCN offers the following submissions in reply:

    a. In his oral evidence, Mr. Turney noted that "there are other drivers besides the strictly regulatory requirement in allowing us to update the feeder. It will improve the reliability for the customers connected to the feeder. It will also prepare us for the smart grid and generation connections that we're expecting in that area of our service territory." (Tr. Vol.1, page 52) Mr. Mahajan further testified that "I think it's not a question of degradation of reliability. It's a question of enhancement of reliability, because we will be picking up new customers, as Mr. Turney said, in that part of Oshawa, which would help us build some redundancy by completing that loop. That allows us to enhance the reliability for our customers, so it's not a question of degradation. It's a question of enhancement of reliability." (Tr. Vol.1, pgs 52-53)

OPUCN therefore submits that it is essential to improve this feeder at this time and not delay this work.

b. OPUCN maintains, as stated in its Incremental Capital Application, that this project remains prudent (Incremental Capital Application, pg 9 of 13).

Application Cost Recovery

24. OPUCN is seeking recovery of the costs associated with this Incremental Capital Application. Board Staff and Intervenors have expressed the opinion that this cost recovery should not be allowed. The principal arguments seem to be that the costs will not be significant and should be absorbed as regulatory costs and that the extension of the IRM period from three to four years will allow OPUCN to recover more in application costs related to its 2008 forward test year cost of service application than originally contemplated in the Board's Decision on OPUCN's 2008 electricity distribution rates.

25. At the time of its 2008 Rate Application OPUCN provided a required cost estimate for the Application process. It is not clear at this point that all the costs will be recovered even with the possible extra year of recovery. OPUCN is not suggesting that its recovery of costs related to its 2008 distribution rate application should be increased. However, OPUCN submits that this Incremental Capital Application is a new application and the appropriateness of the recovery of costs related to this Application should be considered separately from the recovery of costs related to OPUCN's 2008 forward test year cost of service application. In any event, though, even if the Board were to consider whether any recoveries of 2008 rate application-related costs might be available to offset the costs of this Incremental Capital Application, OPUCN does not believe that there will have been any over-recovery of 2008 application-related costs.

26. With respect to the costs of this Incremental Capital Application, OPUCN submits that it is not possible to know at this time what the associated costs will be. OPUCN has suggested an amount of $25,000, recoverable in two increments of $12,500 in the two years leading to OPUCN's next rebasing, with a variance account that would allow

OPUCN to track the difference between the recovered and actual costs, for recovery at a later date. (Tr. Vol.1, pp. 24 ff). That assumes a 2011 rebasing. Board Staff have suggested that that amount may be low (Tr. Vol.1, pg 5), and that is possible. Mr. Mahajan alluded to that possibility during the Oral Hearing: "I have no idea what these costs would be. We are estimating these to be a $25,000, but if you have a better estimate, I would much rather face that sticker shock today" (Tr. Volume 1, pg 97). As noted above, it has been observed that with an extension of the 3rd generation IRM period by one year, it is possible that OPUCN might not rebase until 2012. OPUCN proposes that it be permitted to recover $12,500 per year in costs until its next rebasing. If OPUCN rebases in 2011, this will represent a recovery of $25,000; a 2012 rebasing will represent a recovery of $37,500, with the variance account tracking the difference between the recovered and actual costs, for recovery at a later date. If the costs are significantly above $25,000 and the recovery is in place for three years, this will reduce the additional amount that may be required upon rebasing to make OPUCN whole. Conversely, if the costs are lower, customers will be protected through the variance account, in that if actual costs are lower than the amount collected, a credit could be available to customers at OPUCN's next rebasing.

27. OPUCN submits that if cost recovery is not available, distributors will be deterred from making Incremental Capital applications. OPUCN further submits that it would be regrettable if this innovative and badly needed process were to be avoided due to regulatory uncertainty and a belief on the part of distributors that the process is unusable due to the costs involved.

Conclusion

28. The Board has defined a process whereby funding can be made available for non-discretionary capital expenditures which meet defined criteria of need, materiality, and prudence. OPUCN submits that it has provided satisfactory evidence that the projects which form the basis for this Incremental Capital Application meet these criteria, and that

OPUCN's Incremental Capital Application, as modified through the course of this proceeding, should be approved.

29. OPUCN has attached, for the Board's reference, calculations of the Incremental Revenue Requirement associated with the application (Appendix A), and the rate riders required to recover this amount (Appendix B). These Appendices are excerpts from Exhibit K1.4. OPUCN notes that the $12,500 in costs is not shown in Appendix A, as that value had to be inserted in a later sheet of the Board's Incremental Capital model. The rate riders include cost recovery in the amount of $12,500. As is clear from Exhibit K1.6, impacts of the proposed rate riders on customer bills are minimal even with the inclusion of application costs of $12,500.

30. Finally, OPUCN submits that it filed its 2009 3rd Generation IRM rate application on November 7, 2008. The main part of the application was finalized in March of 2009. This Incremental Capital Application has taken more time to complete and could not be decided prior to the beginning of the May 1, 2009 rate year. OPUCN submits that it has acted in a responsible and timely manner in attempting to meet the Board's timelines in this proceeding. The rate riders shown in Appendix B contemplate implementation as of May 1, 2009 – accordingly, a delay in implementation will result in OPUCN being unable to recover the full incremental revenue requirement. At the Oral Hearing, OPUCN requested that OPUCN be allowed to "recover the full incremental revenue requirement over the remaining portion of the rate year". (Tr. Vol.1, pg 137), and OPUCN notes that none of the parties has opposed this request. OPUCN would be prepared to provide the necessary calculations in this regard to the Board following the issuance of its Decision in this matter.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 13TH DAY OF MAY, 2009.

Original Signed by James C. Sidlofsky
James C. Sidlofsky,
Counsel to Oshawa PUC Networks Inc.

APPENDIX A

2009 OEB 3GIRM Supplementary Filing Module

Oshawa PUC Network Inc. Application Number EB 2008-0205 LDC Licence Number ED-2002-0560

* Model is copied from 209 OEB 3GIRM Supplementary Filing Models (only modiification is that Incremental Capital amount being sought is not total difference in balance between CAPEX Threshold and the 2009 Budgeted Capex but rather Budgeted amounts on four specific Projects.

Current Revenue Requirement

Current Revenue Requirement - General			$ 18,879,310	A
Current Revenue Requirement - Unique			$ -	B
Current Revenue Requirement - Total			$ 18,879,310	C = A + B

Return on Rate Base

Incremental Capital CAPEX			* $ 2,221,500	D
Depreciation Expense as a percentage of Gross Fixed Assets - Reporting Years	4.50%	E	$ 100,052	F = D * E
Incremental Capital CAPEX to be included in Rate Base			$ 2,121,448	G = D + F
Deemed ShortTerm Debt %	4.0%	H	$ 84,858	J = G * H
Deemed Long Term Debt %	52.7%	I	$ 1,118,003	K = G * I
Short Term Interest	4.47%	L	$ 3,793	N = J * L
Long Term Interest	5.82%	M	$ 65,074	O =K * M
Return on Rate Base - Interest			$ 68,868	P = N + O
Deemed Equity %	43.3%	Q	$ 918,587	R = G * Q
Return on Rate Base -Equity	8.57%	S	$ 78,723	T = R * S
Return on Rate Base - Total			$ 147,591	U = P + T

Amortization Expense

Incremental Capital CAPEX	$2,221,500.00	V = D		
Depreciation Expense as a percentage of Gross Fixed Assets - Reporting Years	4.50%	W		
Amortization Expense - Incremental			$ 100,052	X = V * W

Grossed up PIL's

Regulatory Taxable Income			$ 78,723	Y = T
Add Back Amortization Expense			$ 100,052	Z = X
Incremental Capital CAPEX	$2,221,500.00	AA = D		
CCA as a percent of Average UCC	5.09%	AB		
Deduct CCA			$ 113,170	AC = AA * AB
Incremental Taxable Income			$ 65,605	AD = Y + Z - AC
Current Tax Rate (F1.1 Z-Factor Tax Changes)	33.0%	AE		
PIL's Before Gross Up			$ 21,650	AF = AD * AE
Incremental Grossed Up PIL's			$ 32,313	AG = AF / (1 - AE)

Ontario Capital Tax

Incremental Capital CAPEX			$ 2,221,500	AH = D
Less : Available Capital Exemption (if any)	fully utilized in regular tax filing		$ -	AJ
Incremental Capital CAPEX subject to OCT			$ 2,221,500	AK
Ontario Capital Tax Rate (F1.1 Z-Factor Tax Changes)	0.225%	AL		
Incremental Ontario Capital Tax			$ 4,998	AM = AK * AL

Incremental Revenue Requirement

Return on Rate Base - Total	$ 147,591	AN
Amortization Expense - Total	$ 100,052	AO
Incremental Grossed Up PIL's	$ 32,313	AP
Incremental Ontario Capital Tax	$ 4,998	AQ
Incremental Revenue Requirement	$ 284,954	AR = AN + AO + AP + AQ

APPENDIX B

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297454 (Includes Application Costs of $12,500 per year)

Rate Class	Fixed Metric	Vol Metric	Total Revenue $ by Rate Class A	Total Revenue % by Rate Class B = A / $H	Total Incremental Capital $ by Rate Class C = $I * B	Billed kWh D	Billed kW E	Distribution Volumetric Rate kWh Rate Rider F = C / D	Distribution Volumetric Rate kW Rate Rider G = C / E
Residential	Customer	kWh	$10,688,834	56.66%	$168,532	487,192,399	0	$0.000346	
General Service Less Than 50 kW	Customer	kWh	$2,894,687	15.34%	$45,641	140,097,188	0	$0.000326	
General Service 50 to 999 kW	Customer	kW	$3,607,738	19.12%	$56,884	0	893,941		$0.063633
General Service 1,000 to 4,999 kW	Customer	kW	$614,069	3.25%	$9,682	0	171,299		$0.056522
Large Use > 5000 kW	Customer	kW	$484,637	2.57%	$7,641	0	140,182		$0.054510
Unmetered Scattered Load	Customer	kWh	$78,800	0.42%	$1,242	3,841,944	0	$0.000323	
Sentinel Lighting	Connection	kW	$4,238	0.02%	$67	0	139		$0.480685
Street Lighting	Connection	kW	$492,434	2.61%	$7,764	0	26,213		$0.296200
Rate Class 9	NA	NA	$0	0.00%	$0	0	0		
Rate Class 10	NA	NA	$0	0.00%	$0	0	0		
Rate Class 11	NA	NA	$0	0.00%	$0	0	0		
Rate Class 12	NA	NA	$0	0.00%	$0	0	0		
Rate Class 13	NA	NA	$0	0.00%	$0	0	0		
Rate Class 14	NA	NA	$0	0.00%	$0	0	0		
Rate Class 15	NA	NA	$0	0.00%	$0	0	0		
Rate Class 16	NA	NA	$0	0.00%	$0	0	0		
Rate Class 17	NA	NA	$0	0.00%	$0	0	0		
Rate Class 18	NA	NA	$0	0.00%	$0	0	0		
Rate Class 19	NA	NA	$0	0.00%	$0	0	0		
Rate Class 20	NA	NA	$0	0.00%	$0	0	0		
Rate Class 21	NA	NA	$0	0.00%	$0	0	0		
Rate Class 22	NA	NA	$0	0.00%	$0	0	0		
Rate Class 23	NA	NA	$0	0.00%	$0	0	0		
Rate Class 24	NA	NA	$0	0.00%	$0	0	0		
Rate Class 25	NA	NA	$0	0.00%	$0	0	0		
			$18,865,437	100.00%	$297,454				
			H		I				