

June 10, 2009

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File 99999.99902

Ms Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, Suite 2700
Toronto, ON
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Dear Ms Walli:

Re: EB-2008- 0381 Account 1562 – Deferred Payments in Lieu of Taxes (“PILs”)

On November 28, 2008, the Ontario Energy Board (the “Board”) commenced a combined proceeding on its own motion to determine the accuracy of the final account balances for certain electricity distributors with respect to account 1562 Deferred PILs. Account 1562 was established to deal with the rate-making implications of payments in lieu of taxes (“PILs”). Annually since 2001, electricity distributors regulated by the Board have been filing a Spreadsheet Implementation Model for Payments in Lieu of Taxes (“SIMPIL”) as part of their reporting requirements. The SIMPIL model provides an input into account 1562. The Board has not reviewed the principles and methodology underpinning the SIMPIL model, until this proceeding.

On August 20, 2008, Board Staff issued a Discussion Paper (the “Discussion Paper”) to assist parties in resolving outstanding issues with respect to the disposition of balances in account 1562. In addition to the Discussion Paper, a Technical Conference was held on January 20, 2009 and provisions were made in March and April 2009 for interrogatories, submissions and interrogatory responses from a subset of affected distributors, namely ENWIN Utilities Ltd., Halton Hills Hydro Inc., and Barrie Hydro Distribution Inc.

Procedural Order No. 5 was issued on April 27, 2009 inviting all parties to file submissions with the Board regarding further procedural steps in the EB-2008-0381 proceeding. The Consumers Council of Canada (the “Council”) has been an active participant in the EB-2008-0381 proceeding and makes the following submissions.

Through information exchanged at the Technical Conference and the interrogatory process, it became apparent that there are inconsistencies among distributors in their approach to recording amounts to account 1562 from 2001 to 2006. The process to date has highlighted common themes and issues among the three utilities selected. By selecting three utilities to

analyze, parties now have a better understanding of the history of account 1562 and the range of issues related to the SIMPIL model. The Council submits that it would be impractical and inefficient for the Board to embark on a detailed review of the remaining affected utilities as the types of issues would likely be similar.

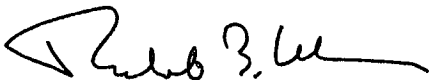
The Council proposes that the next step in the process should be for parties to make submissions on the principles that should underlie the calculation of the final balances for account 1562. The Council agrees with Board Staff that the Board must approve a final methodology to form the basis of a final SIMPIL model applicable to the entire October 1, 2001 to April 30, 2006 period (Discussion Paper, pp. 1-2).

To assist in the filing of submissions, the Council recommends that the Board schedule an issues meeting for parties to define an Issues List for this proceeding. An Issues List would assist parties in organizing their final submissions. Once a Board decision is issued, each utility could present evidence at its next rate case to demonstrate adherence to the Board-approved principles and present a proposal for final account disposition. To the extent that utility-specific issues exist, those issues could be reviewed and decided in the respective rates cases.

The Board has the obligation to ensure utilities are consistent in their approach and that they abide by common principles. The Issues List and recommendations to the Board should address the principles and methodology underlying the SIMPIL model. The Council urges the Board not to undertake a process by which detailed tax calculations are reviewed for each utility. The Council is concerned with the potential cost of such a proceeding and the potential retroactive rate making implications as account 1562 entries extend back to 2001.

Yours truly,

WeirFoulds LLP



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