CANADIAN NIAGARA POWER INC.
A FORTIS ONTARIO Company

June 15, 2009

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
26th Floor – 2300 Yonge Street
Toronto, Ontario M4P 1E4

Dear Ms. Walli:

RE: CANADIAN NIAGARA POWER INC. – FORT ERIE (EB-2008-0223) AND CANADIAN NIAGARA POWER INC. – EASTERN ONTARIO POWER (EB-2008-0222) 2009 ELECTRICITY DISTRIBUTION RATE APPLICATIONS

Please find attached, Canadian Niagara Power Inc.'s Reply Submission in the matter of the above captioned 2009 Electricity Distribution Rate Applications.

Two paper copies of these responses and a CD containing the electronic media have been couriered to your office. A PDF version of these responses will, coincidently with this written submission, be filed via the Board's Regulatory Electronic Submission System.

If you have any questions in connection with the above matter, please do not hesitate to contact the undersigned, Doug Bradbury, Director Regulatory Affairs (905) 994 3634.

Yours truly,

Douglas R. Bradbury
Director – Regulatory Affairs

Enclosures

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, C. S.O. 1998, c.15 (Sched. B);

AND IN THE MATTER OF an Application by Canadian Niagara Power Inc. – Eastern Ontario Power and Canadian Niagara Power – Fort Erie for an Order or Orders pursuant to Section 78 of the *Ontario Energy Board Act, 1998* approving or fixing just and reasonable rates and other service charges for the distribution of electricity, effective May 1, 2009.

REPLY SUBMISSIONS
OF
CANADIAN NIAGARA POWER INC.

CANADIAN NIAGARA POWER INC., FORT ERIE
(EB-2008-0223)
&
CANADIAN NIAGARA POWER INC., EASTERN ONATRIO POWER
(EB-2008-0222)

Index to Reply Submission

1.0 Introduction

1.1 On August 15, 2008, Canadian Niagara Power Inc. ("CNPI") submitted simultaneously separate applications to the Ontario Energy Board (the "Board") seeking an order or orders approving just and reasonable electricity distribution rates and other charges for its three operating areas, CNPI – Eastern Ontario Power (Gananoque), CNPI – Fort Erie and CNPI – Port Colborne, to be effective May 1, 2009.

1.2 Because the Applications contained common elements and the intervenors were common to all three, the Board decided to deal with the Applications at the same time. However, due to certain unique aspects of the CNPI – Port Colborne Application, the proceeding related to it was separated from CNPI – EOP and CNPI – Fort Erie. This Reply Argument relates to only the Applications of CNPI – EOP, EB-2008-0222, and CNPI – Fort Erie, EB-2008-0223.

1.3 The evidence presented in the Applications has been supplemented in interrogatories, supplemental interrogatories, a technical conference and an oral hearing. The evidence is thorough.

1.4 CNPI submitted its Argument-in-Chief to the Board on May 14, 2009 pursuant to Procedural Order No. 7; the Argument-in-Chief pertained to the Applications of CNPI – EOP, EB-2008-0222, and CNPI – Fort Erie, EB-2008-0223. CNPI repeats and relies upon its submissions of its Argument-in-Chief.

1.5 Submissions of Board staff and Final Submissions from Intervenors were complete on June 1, 2009.

These are the Reply Submissions of Canadian Niagara Power Inc.

2.0 Timing of Relief Sought

2.1 The relief sought in these Applications is summarized in CNPI's Argument-in-Chief submitted on May 14, 2009.

2.2 CNPI filed Applications on August 15, 2008 for electricity distribution rates effective May 1, 2009.

2.3 CNPI's current electricity distribution rates were made interim by an Interim Rate Order issued by the Board on April 2, 2009.

2.4 CNPI submits that 2009 Board Approved rates be made effective May 1, 2009 and ordered as to the recover the annualized revenue requirement over the balance of the 2009 rate year through a rate rider made effective until April 30, 2010.

2.5 SEC has supported the rates effective May 1, 2009.[1]

2.6 None of the parties objected to rates being effective May 1, 2009.

3.0 Rate Base

3.01 Discussion of rate base has been structured in this Reply Submission to present CNPI's capital spending and derivation of the working capital allowance separately. CNPI has presented its rate base in evidence, Exhibit 2, Tab 1, Schedule 1, and summarized again in its Argument-in-Chief. CNPI has determined its rate base as being the sum of the average of net book value of fixed assets for the test year plus an allowance for working capital.

3.02 Neither Board staff nor intervenors raised any issues with the derivation of rate base.

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[1] Final Submission of the School Energy Coalition, paragraph 52

3.1 Capital Spending

3.1.1 CNPI – Fort Erie has provided a comprehensive discussion of its capital investment program in its Application followed by substantial discussion during the interrogatory phase, the technical hearing and again in the oral hearing.

As presented in Table 3-2 – Summary of Gross Capital Expenditures (Fort Erie) of its Argument-in-Chief, CNPI – Fort Erie consistently invested in capital from 2006 to 2009. The average of the capital expenditures from 2006 to 2008 is $4,196,333. The forecasted capital expenditures for 2009 Test Year are approximately $86,000 lower than the average of the proceeding three years.

3.1.2 There was a fulsome discussion of CNPI – Fort Erie's capital expenditures in the Application and throughout the evidentiary process.

3.1.3 Board staff acknowledged the varying legacy distribution system with which CNPI is challenged and that CNPI – Fort Erie has supported the need for and prudence of its capital projects. Board staff has not taken issue with CNPI's proposed capital expenditures for the 2009 Test Year.

3.1.4 Energy Probe has raised issue with CNPI's project to replace aging cables emanating from Station 12. Their issue centers on whether or not age is a reliable proxy for condition of these cables.

3.1.5 Energy Probe has submitted that CNPI should provide diagnostic testing in future rate applications to support plant replacement rather than rely on age of the plant as the principal criterion.

3.1.6 CNPI submits that diagnostic testing can be very expensive and results are probabilistically based. In a smaller utility like CNPI, with limited underground assets, it is unlikely there will be sufficient test results available to build a dependable database on which to draw probabilistic conclusions. CNPI further submits that its visual inspections, required by the Distribution System Code, combined with past operating experience are a reasonable approach for prioritizing future plant replacement.

As indicated in the Oral Hearing[2], other cables at the same station and of the same vintage were replaced in 2000 or 2001 due to failures.

3.1.7 VECC, in its final submissions, accepted the Test Year forecasted capital expenditures as reasonable[3].

3.1.8 SEC has noted CNPI's consistent capital spending in the historic period and in the 2009 Test Year. SEC also acknowledged that CNPI is operating some of the oldest electricity distribution systems in the province and perhaps it is not surprising that capital spending needs are high.[4]

3.1.9 SEC submitted that CNPI had ample opportunity to provide its business plan and declined to do so. They believe that as a result the Board faces a dilemma in that the Board does not have the context to assess the value of CNPI's capital investment.

3.1.10 SEC has submitted that the Board compel CNPI to file with the Board, on the record, its current long term business plan, with all narrative, and with all back up analysis, prior to the end of this year.[5] This would not affect current rates but rather provide the Board increased visibility on CNPI and assist the Board in future CNPI cost-of-service rate applications.

3.1.11 CNPI submits that it has filed its business plans. This matter was specifically

[2] Oral Hearing transcript, EB-2008-0222-0223-0224,April121Vol1, Screen 180 of 206
[3] Final Submissions on behalf of the Vulnerable Energy Consumers Coalition, paragraph 2.5
[4] Final Submissions of the School Energy Coalition, paragraph 17
[5] Final Submissions of the School Energy Coalition, paragraph 20

addressed in the SEC's motion on March 12, 2009. The Board rejected the SEC's request to compel CNPI to provide additional information.

3.1.12 CNPI – EOP has provided a comprehensive discussion of its capital investment program in its Application followed by substantial discussion during the interrogatory phase, the technical hearing and again in the oral hearing.

As presented in Table 3-2 – Summary of Gross Capital Expenditures (EOP) of its Argument-in-Chief, CNPI – EOP consistently invested in capital from 2006 to 2009. The investment in 2007 was considerably more and was discussed thoroughly in evidence, this is primarily attributable to the requirement for a new 44 kV substation. The planned capital expenditure for 2009 is approximately $100,000 less than that of 2008.

3.1.13 There was a fulsome discussion of CNPI – EOP's capital expenditures in the Application and throughout the evidentiary process.

3.1.14 Board staff acknowledged the varying legacy distribution system with which CNPI is challenged and that CNPI – EOP has supported the need for and prudence of its capital projects. Board staff has not taken issue with CNPI's proposed capital expenditures for the 2009 Test Year.

3.1.15 Energy Probe submitted that CNPI – EOP has proposed capital expenditures to rebuild a 39 km, 26.4 kV ("North Line") line serving three small hydro electric generating plants along the Rideau Canal.[6]

3.1.16 Energy Probe goes on to submit that the Board reduce CNPI – EOP's capital requirement in the Test Year by an amount included to rebuild portions of the North Line.[7]

[6] Energy Probe Research Foundation Final Argument, paragraph 12
[7] Energy Probe Research Foundation Final Argument, paragraph 34

3.1.17 CNPI – EOP has not forecasted amounts for a rebuild of the North Line in the 2009 Test Year and thus there are no amounts for the Board to reduce. CNPI – EOP, in its Application Exhibit 2, Tab 1, Schedule 1, Appendix A on page 2, discussed the North Line in a descriptive fashion to give the reader a sense of the challenges faced with electricity distribution at Eastern Ontario Power. It does not imply that CNPI – EOP has proposed a rebuild of the line at this time.

3.1.18 The North Line is a legacy of the Eastern Ontario Power distribution system and as such CNPI – EOP has the challenges associated with it. CNPI – EOP has the obligation to provide service to all customers, including the hydro electric plants, as discussed during the oral hearing.[8] CNPI – EOP's challenge includes exploring opportunities with Hydro One Networks Inc. to service the area of the North Line.

3.1.19 Energy Probe submitted that the East line, according to CNPI's witness, is probably capable of carrying the 2009 forecast peak of 11 MW.

3.1.20 Energy Probe has submitted that since the East line is ***probably*** [emphasis added] capable of carrying the 11 MW load that this project should be postponed until such time that it becomes necessary.[9]

3.1.21 Energy Probe has submitted that the Board reduce the CNPI – EOP capital requirement by $100,000 in the 2009 Test Year.[10]

3.1.22 Energy Probe's assertion assumes that the East line conductors, connectors and ancillary line equipment have not lost any of their current carrying capacity over their life.

3.1.23 Good utility practice means that the utility will recognize weaknesses in the

[8] Oral Proceeding Transcript, EB-2008-0222-0223-0224,April20Vol1
[9] Energy Probe Research Foundation Final Argument, paragraph 19
[10] Energy Probe Research Foundation Final Argument, paragraph 33

distribution system and take action to address those weaknesses in order to avoid jeopardizing the integrity of the system and provide reliable service. CNPI – EOP has recognized a weakness associated with the East line and has implemented a plan to address that weakness.

3.1.24 Energy Probe's submission that CNPI – EOP defer the project until it is necessary (presumably when the line can no longer support the load) is not a reasonable solution and will unnecessarily expose the residents and customers of Gananoque to power outages.

3.1.25 Energy Probe's submission that the East line project be eliminated by the Board is contrary to positions taken by Board staff and others that CNPI – EOP explore opportunities to reduce losses. Allowing the East line to exist in is current conditions and continue to be loaded, to the extent that it is, foregoes an opportunity to address losses in CNPI – EOP. The East line is a trunk line from the 44 kV substation to the load center. Improving its current carrying capability will reduce heating losses.

3.1.26 VECC, in its final submissions, accepted the 2009 Test Year forecasted capital expenditures as reasonable.[11]

3.1.27 SEC's submission, summarized beginning at Section 3.1.8 applies equally to CNPI – Fort Erie and CNPI – EOP.

3.1.28 CNPI submits that its Capital Spending plans for the 2009 Test Year are acceptable and ought to be approved by the Board.

[11] Final Submissions on behalf of the Vulnerable Energy Consumers Coalition, paragraph 2.2

3.2 Asset Management

3.2.1 Board staff acknowledged CNPI's Assets Management approach has taken into consideration customer expectations, service reliability, safety and productivity improvements, and has justified the need for, priorities and prudence of capital projects in recent years and for the 2009 Test Year.[12]

3.2.2 Board staff submitted that CNPI should be encouraged to undertake and provide improved documentation on asset condition and Asset Management in its next Cost of Service application.[13]

3.2.3 SEC did not comment directly on the matter of Asset Management but did allude to the matter in their submission at paragraph 20 which has been discussed here under the heading of Capital Spending beginning at Section 3.1.8.

3.2.4 CNPI submits that there has been sufficient evidence produced in its Applications, through the Interrogatory phase, the Technical Conference and the Oral Hearing for the Board to appreciate and accept CNPI's recent capital projects and forecasted projects for the 2009 Test Year.

3.2.5 CNPI appreciates the Board staff position with respect improved documentation on asset condition and Asset Management in CNPI's next Cost of Service application. CNPI has recognized the importance of this aspect of the evidence as examination of its Applications has developed.

3.3 Working Capital Allowance

3.3.1 Board staff has taken no issue with CNPI's methodology of calculating the

[12] Board Staff Submission, page 8
[13] Board Staff Submission, page 9

Working Capital Allowance.

3.3.2 Board staff has submitted that CNPI should update the Working Capital Allowance in each Application in determining the revenue requirement and associated distribution rates. As well this update should include any changes in controllable expenses as determined by the Board, the most recent commodity prices, approved retail transmission charges, and Wholesale Market Service Charges.[14]

3.3.3 CNPI accepts the Board staff submission and will comply with Board direction in this matter.

3.3.4 VECC has taken no issue in respect of the Working Capital Allowance in either application.

3.3.5 SEC has raised no issues in respect of the Working Capital Allowance in either application.

3.3.6 CNPI submits that its Working Capital Allowance methodology is acceptable and ought to be approved by the Board. As discussed in paragraph 5.3.2, CNPI will update the Working Capital Allowance in each application as directed by the Board.

4.0 Operating Costs

4.0.1 Board staff and intervenors have commented on discreet operating matters and CNPI's OM&A cost per customer from a cohort and comparator perspective. In order to assist the Board, CNPI has addressed both issues separately in this Reply Submission.

[14] Board Staff Submission, page 9

4.1 Operations, Maintenance and Administration Costs

4.1.1 CNPI has provided a comprehensive discussion of its OM&A costs in its Application followed by substantial discussion during the interrogatory phase, the technical hearing and again in the oral hearing.

4.1.2 In its Argument-in-Chief, CNPI detailed the trend in its OM&A since 2004 projected through to the 2009 Test Year. This shows, particularly so on a constant dollar basis, that CNPI has both controlled and reduced its OM&A spending.[15]

4.1.3 Board staff acknowledged CNPI's accomplishments in respect of OM&A costs. Board staff stated that CNPI – EOP had reduced its 2009 OM&A costs by 13.9% when compared to 2006 actuals and CNPI – Fort Erie had reduced its 2009 OM&A costs by 1.2% when compared to 2006 actuals.[16]

4.1.4 Board staff invited CNPI – EOP to comment on its regime of a three year cycle for vegetation management when a neighbouring utility, Hydro One Networks, employees an eight year cycle.

4.1.5 It is difficult to comment on Hydro One Networks' vegetation management program without understanding their operating strategy. It is, however, important to realize that Hydro One Networks employ their own Forestry Workers while CNPI – EOP depends on contractor resources. To minimize staging costs, CNPI – EOP has to ensure contract crews are best utilized based on its operating experiences and capabilities. Hydro One Networks will, by the virtue of operational control, have crews at the ready to address ongoing vegetation matters as they arise.

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[15] Argument-in-Chief, CNPI – Fort Erie and CNPI – EOP, May 19, 2009, Section 5 – Operating Costs
[16] Board Staff Submission, page 15 & 17

CNPI finds that the three year program is manageable. For example it lends itself to dividing the town into two operational zones and the rural areas comprising the third. From a supervision perspective the contracts are easier to administer and lessens the need for overlap and spot work.

Because of the inherent operational differences, a straight comparison of CNPI – EOP and Hydro One Networks is difficult to assess.

4.1.6 Board staff has indicated that CNPI – EOP has forecasted $142,800 for meter replacements in its OM&A costs and has invited comment.

4.1.7 The Board staff interrogatory 51 included a schedule of cost drivers per year. This schedule showed major increases/decreases in certain areas per year. It did not reflect every increase or decrease shown on the OM&A table. The net effect of increases/decrease, not considered major, was shown as miscellaneous cost drivers.

The meter maintenance category does not have an additional $142,800 built into revenue requirement for the 2009 Test Year. The amount for the 2009 Test Year is $88,229[17]. The amount for 2006 Actual was $95,177. Therefore, there is a decrease from 2006 to 2009 of $6,948. CNPI understands that basis for the confusion regarding this cost, as its response to Board staff interrogatory #51 did not reflect meter maintenance decreases in 2008 and 2009. Nevertheless, the 2009 forecasted balance of $88,229 set out in the pre-filed evidence does not include the increases in 2006 and 2007.

4.1.8 Board staff has also invited CNPI – EOP to comment on their interpretation that CNPI – EOP has increased its Property Maintenance account by $112,400 in 2009 for a total of $215,100 since 2007.

[17] CNPI – Fort Erie Application, Exhibit 4 Tab 2 Schedule 2

4.1.9 The property maintenance also does not have an additional $215,100 built into revenue requirement for the 2009 Test Year. The amount for the 2009 Test Year is $482,233[18]. The amount for 2006 Actual was $359,116. Therefore there is an increase from 2006 to 2009 of $123,117. These amounts are a subset account 5675.

4.1.10 Energy Probe has submitted that CNPI – Fort Erie has excess costs associated with the 15 hour Control Room operations and the Board should reduce CNPI – Fort Erie's OM&A costs by $100,000 in the 2009 Test Year.[19]

4.1.11 Energy Probe has made two fundamental errors in this submission.

1. Energy Probe has overlooked the fact that the Control Room, located in Fort Erie, is allocated to the distribution operations of both CNPI – Fort Erie and CNPI – Port Colborne, and
2. CNPI is a licenced transmitter and, as such, has obligations under the Transmission System Code and its ancillary operating agreements with Hydro One Networks Inc. and the Independent Electricity System Operator in respect of its operations. Therefore, as a Transmitter, CNPI provides Transmission System Control from its Control Room in Fort Erie. These costs are allocated to CNPI – Transmission.

On the basis of the foregoing, CNPI allocates operating costs associated with its Control Room to CNPI – Fort Erie, CNPI – Port Colborne and CNPI – Transmission.

4.1.12 In describing the function of a Control Room Operator, Energy Probe has used a very narrow definition. The Operator, in addition to his or her regular functions, provides the operational oversight of the distribution and transmission system.

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[18] CNPI – Fort Erie Application, Exhibit 4 Tab 2 Schedule 2
[19] Energy Probe Research Foundation Final Argument, paragraph 37

4.1.13 CNPI submits that Energy Probe's submission in this matter has not considered all of the evidence presented by CNPI, particularly its allocation of Control Room costs to multiple service areas (CNPI – Fort Erie and CNPI – Port Colborne) and to its transmission operations. Costs allocated to CNPI – Transmission are borne by CNPI – Transmission and not its distribution customers.

CNPI submits that Energy Probe's submission to reduce CNPI – Fort Erie OM&A costs in the Test Year by $100,000 ought to be rejected by the Board.

4.1.14 In similar fashion as Board staff, VECC has acknowledged CNPI's control of OM&A costs from the 2006 Actual to the 2009 Test Year.[20]

4.1.15 VECC submitted that if their understanding of vegetation costs for CNPI – EOP as stated in paragraph 4.3 of their Final Submission was correct than VECC would accept those costs as reasonable.

4.1.16 CNPI – EOP submits that VECC's interpretation in paragraph 4.3 is correct.

4.1.17 VECC submitted that the 2009 vegetation management cost for CNPI – Fort Erie's increase of $68,608 represents a one-time cost and should be levelized over the four year IRM period rather than embedded in base rates. As such, VECC submitted that the CNPI – Fort Erie Operating Costs should be reduced by $51,456 to $17,152 for the purposes of 2009 Test Year rates.[21]

4.1.18 CNPI has indicated in evidence that it will have to return before the Board in three years to address the CNPI – Port Colborne lease and therefore its IRM period would be three years.

On this basis, VECC's submission should be that the Operating Costs should

[20] Final Submissions on behalf of the Vulnerable Energy Consumers Coalition, paragraph 4.1 & 4.4
[21] Final Submissions on behalf of the Vulnerable Energy Consumers Coalition, paragraph 4.7

be reduced by $45,738 to $22,870 for the purposes of 2009 Test Year rates.

4.1.19 SEC has proposed that the Board direct CNPI, in its next rebasing application, to report on tangible OM&A savings it has achieved, through its capital spending initiatives and otherwise, and also report on its future plans to get its cost levels in line with comparable Ontario LDCs.

4.1.20 CNPI submits that it is currently within the purview of the Board to examine CNPI's capital spending in the context of a cost of service application and no special directive is required from the Board. Further, it has not been established the CNPI's cost levels are not in line with ***comparable*** [emphasis added] Ontario LDC's.

4.1.21 SEC has raised issues related to Regulatory Costs in respect of OM&A and these are discussed in Section 14 of this Reply Submission.

4.1.22 CNPI submits that its OM&A costs in the 2009 Test Year are reasonable and ought to be approved by the Board.

4.2 Comparative Operating Costs

4.2.1 First of all, CNPI submits that reference to and inferences made with respect to the benchmarking analysis prepared for the Board by Pacific Economics Group ("PEG") are comparative indicators only and have not been tested thoroughly. Any PEG comparative inferences should not be a decisive measure in the Board's Decision.

4.2.2 Board staff has expressed concerns about operating costs per customer ($380) being higher than most of CNPI – EOP's cohorts. However, Board staff noted that costs have come down since 2006, which indicates an effort to reduce the cost per customer metric.

4.2.3 Board staff has expressed concerns about operating costs per customer ($297) being higher than most of CNPI – Fort Erie's cohorts. However, Board staff noted that costs have come down since 2006, which indicates an effort to reduce the cost per customer metric.

4.2.4 CNPI has, through prudent management, reduced its operating costs as noted in the Board staff submission and in evidence.

4.2.5 CNPI, during the Oral Hearing, presented evidence, Exhibit K1.5, which presented CNPI as a single LDC. In this evidence it is clear that CNPI presents favourably with other LDCs in that cohort. This indicates that it maybe the segregation of CNPI into its operating territories that lends itself to a less favourable comparator.

4.2.6 Energy Probe has questioned the legitimacy of CNPI's analysis of its OM&A costs presented in Exhibit K1.5 because no investigation was conducted to determine whether or not the peer utilities had similar costs.[22]

4.2.7 This submission, in fact, supports CNPI's argument. The fact is the entire PEG analysis has not been investigated to determine what costs have been either included or excluded by individual LDCs.

4.2.8 CNPI submits that there is no foundation in evidence (from Energy Probe or others) to conclude whether or not the costs equivalent to the early retirement program, the Port Colborne lease or the Fort Erie service centre rental are contained within the OM&A costs of CNPI's cohorts.

4.2.9 VECC submitted that the CNPI maintains that the current rankings do not provide an "apples to apples" comparison. VECC has no specific recommendations on this issue other than to invite the CNPI to supply its comments and propose refinements to the benchmarking exercise so that the

[22] Energy Probe Research Foundation Final Argument, paragraph 22

rankings so obtained will provide an accurate reflection of EOP's and its cohort's comparable costs.

4.2.10 CNPI is on the official record in respect to the Board's initiative on comparators and cohorts. CNPI has expressed its opinion as to the measure of value that the PEG analysis brings to this proceeding in Section 4.2.1 of the Reply Submission.

CNPI submits that further evaluation of the PEG analysis is outside the scope of this matter.

4.2.11 SEC has submitted a different manner of comparison, a comparison of electricity distribution charges. Though not directly attributed to operating costs, CNPI will address it in this section of its Reply Submission.

4.2.12 CNPI is troubled by the analysis provided by SEC at Appendix "A" of it reply submission. CNPI submits that Appendix "A" is new evidence that has been introduced after the evidentiary portion of the proceeding ended. CNPI has not had the opportunity to test this evidence through interrogatories or cross-examination. Some important questions that would have been asked had this information been properly introduced include: (i) how were the sample LDCs "randomly" selected?; (ii) were any LDCs rejected from inclusion in the sample group, and why?; (iii) what is the source of the information? These few questions have been set out for illustrative purposes. However, had this evidence been filed during the evidentiary portion of the proceeding, CNPI would have posed many more. Rate comparisons require an examination of a broad range of factors, including non-cost related factors. For these reasons, CNPI submits that Appendix "A" should be disregarded by the Board.

4.2.13 SEC also argued that CNPI should be able to explain to the Board "why what it charges in Gananoque is so significantly different than its neighbour Kingston, and why what it charges in Fort Erie is so much higher than its neighbour Welland charges similar customers, and so on." CNPI can only explain its own costs and rates, as it has done throughout this proceeding. CNPI is not in a position to comment on the costs and rates of other LDCs.

4.3.14 Projection of electricity distribution charge is a straight line function, y = mx +b, where;

- “y” is the total distribution charge,
- “m” is the volumetric charge,
- “b” is the monthly distribution charge, and
- “x” is the volume in kWh or kW.

Selection of varying values of “m” and “b” will result in different values of “y” for the same “x”.

During the initial unbundling, efforts were made to minimize rate impacts and values of “m” and “b” were chosen accordingly. Some efforts have started with this rate application to move to a revenue cost ratio closer to unity and this has allowed some manipulation of the values.

CNPI submits that the evolution of electricity distribution rate design in Ontario has not progressed to a point where a pure examination of costs of discreet consumptions is a valid tool for comparison purposes.

4.3.15 The net book value of the assets required to provide service will influence the overall revenue requirement and thus the price. A LDC that can be described as pure poles and wires do not have the same investment in facilities as does a LDC providing distribution stations and ancillary equipment. Therefore, their respective rate bases are not comparable.

4.3.16 The customer densities will impact the revenue requirement of respective LDCs. Both CNPI – Fort Erie and CNPI – EOP has substantial rural areas.

4.3.17 CNPI acknowledges that its cost allocation and current rate design reveals that it is over recovering from commercial and industrial customers and under recovering from others including residential customers. Others in SEC's illustration maybe the opposite. This however is a dynamic situation that is being resolved with current initiatives.

4.3.18 CNPI has provided several concrete illustrations as to why the submission provided by SEC regarding neighbouring utilities should not be relied upon in the context of these Applications.

5.0 Depreciation

5.1 Board staff has acknowledged that the grandfathering of CNPI's legacy depreciation/amortization rates is consistent with the Board's policy as documented in the 2006 EDRH. Board staff stated that any overall differences are, in all likelihood, small in magnitude.[23]

Board staff has taken no issue with CNPI's methodology for calculating and its proposed depreciation expense.

5.2 CNPI submits that its depreciation expense is reasonable and ought to be approved by the Board.

6.0 Taxes

6.1 CNPI is an investor owned corporation that pays Federal and Provincial income taxes.

6.2 Board staff has taken no issue with the methodology, including the approach for allocating on a top-down basis between transmission and distribution and then within distribution to the three service areas, by which CNPI has estimated its tax allowance that should be recoverable in its 2009 distribution

[23] Board Staff Submission, page 19

rates.

6.3 CNPI submits that its methodology for estimating tax allowance is reasonable and ought to be approved by the Board.

6.4 CNPI will update its tax allowance for changes to the revenue requirement as a result of updating the Cost of Power, the Board's decision on rate base, capital and operating expenditures, and applicable changes in tax rates.

7.0 Cost of Capital and Capital Structure

7.1 Capital Structure

7.1.1 CNPI has proposed a capital structure common to CNPI – Fort Erie and CNPI – EOP. 56.7% debt (composed of 52.7% long term debt and 4% short term debt) and 43.3% equity.

7.1.2 There were no issues raised related to CNPI's capital structure. CNPI submits that its proposed capital structure is compliant with Board guidelines and ought to be approved by the Board.

7.2 Return on Equity

7.2.1 CNPI, in its Applications, has proposed a return on equity of 8.39% based on May 2008 Consensus Forecast. On February 24, 2009, the Board issued a letter to all distributors announcing updated Cost of Capital parameters to be used for rate setting in 2009 Cost of Service electricity distribution rate applications. The return on equity is 8.01%.

7.2.2 CNPI will comply with Board direction in this matter.

7.3 Short Term Debt Rate

7.3.1 CNPI, in its Applications, has proposed a short term debt rate of 3.38% based on May 2008 Consensus Forecast. On February 24, 2009, the Board issued a letter to all distributors announcing updated Cost of Capital parameters to be used for rate setting in 2009 Cost of Service electricity distribution rate applications. The deemed short term debt rate is 1.33%.

7.3.2 CNPI will comply with Board direction in this matter.

7.4 Long Term Debt Rate

7.4.1 CNPI currently has a $15 million debt obligation to its affiliate FortisOntario. This debt instrument, filed in response to SEC's interrogatory #18, is dated August 13, 2008 and bears an interest rate of 6.13%. On its face, and as described by CNPI in the oral hearing, it is debt held by an affiliate that is callable-on-demand.

7.4.2 CNPI forecasts that its debt requirements in the 2009 Test Year will increase, and expects that the $15 million debt instrument will be recalled and replaced with a $21 million instrument by CNPI's affiliate FortisOntario.[24]

7.4.3 The Board's rules for establishing the appropriate cost-of-debt in a rate application are set out in the *Report of the Board on Cost of Capital and 2nd Generation Incentive Regulation for Ontario's Electricity Distributors*, dated December 20, 2006 (the "Report"). According to the Report, for all affiliate debt that is callable on demand, the Board will use the current deemed long-term debt rate:

[24] Transcript, Vol. 2, p. 44, lines 3-5.

> **For all variable-rate debt and for all affiliate debt that is callable on demand the Board will use the current deemed long-term debt rate.**[25]

Because the $21 million debt instrument will be affiliate debt that is callable on demand, CNPI submits that, based on a strict interpretation of the Report, the Board's current deemed long-term debt rate of 7.62% should apply. In EB-2008-0225, where Centre Wellington Hydro Ltd. had affiliate debt that was callable on demand bearing an interest rate of 7.25%, the Board applied the Report and used the higher deemed long-term debt rate of 7.62%.

7.4.4 In addition to the rule that the deemed long-term debt rate should apply to affiliate debt that is callable on demand, the Report also provides that for new affiliated debt, the allowed rate will be the lower of the contracted rate and the deemed long-term debt rate:

> **For new affiliated debt, the Board has determined that the allowed rate will be the lower of the contracted rate and the deemed long-term debt rate.**[26]

The $21 million debt instrument issued in the test year will be new debt, and will bear an interest rate of 7.62% to reflect the Board's long-term deemed debt rate (ie. just as the 6.13% debt rate on the $15 million debt instrument was calculated based on the Report). Since the lower of the contracted rate and the deemed long-term debt rate will be 7.62%, based on a strict interpretation of the Report, the Board's deemed long-term debt rate of 7.62% should apply.

7.4.5 This situation is similar to that of PUC Distribution Inc. ("PUC") in EB-2007-0931 where PUC indicated in its application that it intended to incur new third-party debt and renegotiated affiliate debt in its 2008 Test Year. PUC provided a calculated cost rate of 5.82% for both the third-party debt and the affiliate debt. Despite the fact that for both the third-party debt and the affiliate debt the

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[25] The Report at page 14.
[26] The Report at page 13.

rate forecasted by PUC was lower than the deemed long-term debt rate of 6.10%, the Board ordered that the deemed long-term debt rate of 6.10% apply based on the Report:

> **The Board finds PUC's proposals regarding capitalization and cost of capital reasonable. The Board notes that renegotiation of the affiliated debt has not been completed and the forecasted rate for the new third-party debt is unchanged from the Company's application. It is the Board's view that both forms of debt should be considered new debt and attract the updated cost of long-term debt pursuant to section 2.2.1 of the Board Report.**

Clearly, if the Board applied the Report to CNPI's circumstance, the deemed long-term debt rate of 7.62% would apply. CNPI submits that the Board should not depart from the Report in setting CNPI's cost of capital. The Report was developed by the Board after an extensive stakeholder process that involved input from a number of stakeholders and experts. The Report has been applied by the Board in numerous rate proceedings and provides administrative predictability and consistency to distributors.

7.4.6 Board staff has submitted that the situation is less than clear as to what rate should apply. One reason for this assertion is that although CNPI claims that its $15 million promissory note bears and interest rate of 6.13%, the 2008 deemed long-term debt rate is 6.10%. CNPI submits that the debt rate of the $15 million instrument is irrelevant, since it will be recalled and replaced in the 2009 Test Year. In any event, as stated by CNPI at the oral hearing, the 6.13% debt rate was calculated using the methodology set out in the Report for establishing a deemed long-term debt rate. CNPI used the most current Consensus Forecast information available (May 2008) at the time it entered into the $15 million debt instrument in August of 2008. The rate of 6.10% issued by the Board in February of 2008 used less current Consensus Forecast information, which explains the minor difference of 0.03%.

7.4.7 Board staff also raised a concern that the debt arrangement between

FortisOntario and CNPI is not at arm's length and does not balance both the consumers' and shareholders' interests. CNPI submits that non-arm's length debt arrangements are common in the industry, which is precisely why the Report addresses affiliate debt financing arrangements. If Board staff believes that the Report produces an inappropriate debt rate, CNPI suggests that the Report be amended by the Board rather than developing rules on a case-by-case basis. Since the Report is currently under review in EB-2009-0084, CNPI submits that that is the appropriate forum to address alleged deficiencies with the Report. Accordingly, the option put forward by Board staff to depart from the Report (ie. that the $21 million instrument be treated as two separate instruments with different debt rates) should be rejected by the Board.

7.4.8 SEC suggested that CNPI's proposed rate of 7.62% is an "undisguised attempt to use the Board's policies to recover the maximum amount possible from ratepayers". CNPI takes exception to this allegation. CNPI should not be faulted for applying the rules that were developed by the Board. As indicated in the oral hearing, as CNPI requires money, it borrows from its affiliate until its requirements are large enough to go to external markets.[27] When CNPI did borrow from its affiliate in 2008, the debt rate used was calculated using the formula set out in the Board's Report. CNPI submits that there is nothing wrong with this debt financing process. SEC has suggested that at most, a debt rate of 6.13% should be applied. CNPI submits that SEC's suggestion is arbitrary, since there is no basis for a debt rate of 6.13% on the $21 million instrument. The 6.13% on the $15 million instrument was derived from the Report, which also provides that affiliate debt that is callable on demand will be automatically adjusted at rebasing (ie. even if the $15 million instrument were not replaced, it would still attract the deemed long-term debt rate). In support of its position, SEC wrote that the rate for demand debt being granted by banks is under 5%. However, SEC provided no evidence to support this data. It should also be noted that the SEC adopted what seems to be a very different position in its April 16, 2009 submission to the Board in EB-2009-

[27] Transcript, Vol. 2, p. 42, lines 13-15.

0084 (the review of the Report), where SEC wrote:

> **The Board has not heard and assessed any evidence on which a decision could be made that is inconsistent with its current methodology. Therefore, for 2009 the Board should adopt the values derived from its current methodology, without amendment.**[28]

7.4.9 Although VECC seems to take issue with the 7.62% debt rate proposed by CNPI, it neither recommended what it believes would be an appropriate rate nor a basis for that rate.

7.4.10 For all of these reasons, CNPI submits that the current deemed long-term debt rate should be applied to its forecasted $21 million debt instrument in accordance with the Report.

7.5 Weighted Average Cost of Capital

7.5.1 CNPI, in its Applications, has proposed a weighted average cost of capital of 7.36%. This is the combined components of the capital structure, return on equity and debt rates in the Applications. There have been no issues raised relating to the determination of weighted average cost of capital.

7.5.2 CNPI will update its weighted average cost of capital on compliance with Board direction related to the individual components.

8.0 Shared Services and Corporate Cost Allocations, Shared Assets Allocations

8.1 CNPI has employed a methodology of shared services and corporate cost allocations to maximize efficiencies and avoid duplications in providing the required skills and expertise to each of its business functions.

8.2 CNPI retained BDR NorthAmerica Inc. ("BDR") to review its methodology.

[28] The SEC's submission is available on the Board's website.

The BDR was provided in evidence as Appendix B to Exhibit 4, Tab 2, Schedule 4.

8.3 CNPI's shared services and corporate cost allocations were examined thoroughly in evidence and the evidentiary process.

8.4 Board staff submitted that the study was appropriate for its purpose.

8.5 SEC submitted that the "allocation system, while complicated, does appear to be thorough and does appear to allocate costs in a fair manner, based on the information available on the record[29]".

8.6 CNPI submits that its Shared Services Allocation Methodology and its Shared Assets Allocation Methodology are just and reasonable and ought to be approved by the Board.

9.0 Customer and Load Forecast

9.0.1 To assist the Board, CNPI has segregated this portion of the Reply Submission between the Customer Forecast and the Load Forecast.

9.1 Customer Forecast

9.1.1 Board staff acknowledged that both CNPI – Fort Erie and CNPI – EOP have experience modest population growth and consequently CNPI has forecasted little change in its customer forecast.

9.1.2 VECC in paragraphs 3.7 and 3.12 of its Final Submission indicated that CNPI's customer forecasts were reasonable and VECC took no issue with the customer counts.

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[29] Final Submissions of the School Energy Coalition, paragraph 36

9.1.3 CNPI submits that its customer forecasts for CNPI – Fort Erie and CNPI – EOP are reasonable and ought to be approved by the Board.

9.2 Load Forecast

9.2.1 CNPI's load forecast is based on historical weather adjusted average consumptions per customer (normalized average consumption), projected into the Test Year using the forecasted customer accounts discussed previously.

9.2.2 There were no issues raised in respect of this underlying methodology.

9.2.3 CNPI's weather normalization methodology was based on the published IESO weather normalization factors which were modified by service area specific "uplift factors" determined from the ratio of weather sensitive and non-weather sensitive loads as determined by Hydro One Networks Inc. on CNPI's behalf in the 2006 Cost Allocation Filing.

9.2.4 CNPI, during cross examination by VECC, acknowledged that there was a flaw in the application of the uplift factors. This was confirmed by CNPI in Undertaking JT1.1. Nevertheless, CNPI reiterated that despite this shortcoming the results were intuitively reliable.

9.2.5 CNPI incorporated the effects of CDM into its load forecasting by projecting previously realized CDM impacts into the Test Year forecast.

9.2.6 Board staff submitted that CNPI's weather normalization methodology ***could*** [emphasis added] introduce a significant load forecasting error. Board staff went on to submit that in spite of its reservations related to weather normalization correction factor and to a lesser extend the future CDM effects that the Board should accept the load forecast as reasonable and appropriate for rate setting.[30]

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[30] Board Staff Submission, page 14

9.2.7 VECC in its submission for both CNP – Fort Erie and CNPI – EOP has pointed out the same perceived short comings in CNPI's weather normalization as did Board staff. However, VECC has submitted that the Board direct CNPI, for certain customer classes, to use long term historical averages to forecast the 2009 Test Year loads.[31]

9.2.8 In a footnote to VECC's table in paragraph 3.13, VECC has noted that the 2002 and 2003 historical values are identical and suggests one of the two is incorrect. Actually, CNPI – EOP did not enter the electricity market until April 2003 when purchased by Canadian Niagara Power. Prior to that period, the LDC in Gananoque had not unbundled distribution rates and customer classes, as seen today, had not been established. Therefore, in the 2006 EDR, CNPI used duplicate entries for 2002 and 2003 to allow the model to function. This was disclosed in the 2006 EDR application. The heading used in the tables for CNPI's load forecast state that the 2002 to 2004 data is from the 2006 EDR.

9.2.9 While VECC's proposal may appear reasonable on the surface, it does not take into account the extensive review that CNPI provided in its Applications. Neither does it compensate for the first-hand familiarity CNPI has with its customers. CNPI, in Exhibit 3, Tab 2, Schedule1, provided the Board with a thorough understanding of the communities serviced and the customer classes. CNPI's load forecast is a function of this knowledge and experience.

9.2.10 SEC submitted that it had reviewed VECC's submission and agreed with their reasoning.[32]

9.2.11 CNPI submits that while Board staff and VECC have found weakness in its weather normalization methodology, the weakness has not resulted in a

[31] Final Submissions on behalf of the Vulnerable Energy Consumers Coalition, paragraph 3.11 & 3.15
[32] Final Submission of the School Energy Coalition, paragraph 15

notable misstatement of the loads forecasted for 2009 Test Year.

CNPI agrees with Board staff reasoning that given the loads over the historical period have been so flat, any under correction would have minimal effect if any.

9.2.12 Board staff has suggested that CNPI has probably used the best weather normalization information readily available to it when it developed its load forecast. CNPI respects this conclusion and further suggests that a tested weather normalization methodology for a smaller localized LDC as yet to be developed. This matter will hopefully to be addressed at the Board in the future.

9.2.13 CNPI submits that its load forecasts for CNPI – Fort Erie and CNPI – EOP are reasonable and ought to be approved by the Board.

10.0 Distribution Losses

10.1 CNPI has provided a fulsome discussion of its proposed distribution loss factor, supply facilities loss factor and total loss factor in its Applications at Exhibit 4, Tab 2, Schedule 8. This was discussed further during the evidentiary process.

10.2 In the case of CNPI – EOP, Board staff submitted that despite variations contributed to by an absence of reverse power flow revenue metering and a change in the mix of load between the 26 kV and 4 kV systems, the effect of averaging losses over 2005 to 2007 provided a result that is consistent and acceptable for 2009 rates[33].

10.3 Board staff also submitted that CNPI – EOP should provide detailed information about the distribution loss factor when reconfiguration of the

[33] Board Staff Submission, page 21

distribution system is complete.

10.4 CNPI has already begun exploring system reconfiguration opportunities that may lend themselves to technical loss reductions. These include reconfiguration of the East line previously discussed beginning at Section 3.1.16 of the Reply Submission. CNPI is amenable to discussing these and other opportunities with the Board.

10.5 Energy Probe connected the North Line, which had been discussed in the CNPI – EOP Application (Exhibit 2, Tab 1, Schedule 1, Appendix A), to distribution losses[34]. Issues related to the North Line are discussed in more detail in Section 3.1, Capital Spending, of this Reply Submission. However, CNPI would view Energy Probe's suggestion that customers connected to that line be assessed the specific losses on that line to be contrary to the Retail Settlement Code where losses have "postage stamp" consideration. That is to say all customers contribute equally despite their locale. The North Line is a legacy of the distribution system in Gananoque and challenges associated with it should be dealt with in proper context.

10.6 VECC in its submission favours an averaging of the 2006 Board Approved distribution loss factor with the 2005 to 2007 actual average[35]. CNPI appreciates VECC's desire to realize a lower distribution loss factor; however their argument fails to consider the impact of lost industrial loads. The industrial loads were connected at 26 kV and 44 kV distribution voltages; their loss means a greater percentage of total system load is supplied by the 4 kV system and as a result will yield greater losses as a percentage of load supplied. Factoring in historical losses, in the manner suggested by VECC, does not address the reality of the impact of these plant closures. The reality is that the system configuration has changed, likely for the long term, and that change has adversely impacted the distribution loss factor.

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[34] Energy Probe Research Foundation Final Argument, paragraph 15
[35] Final Submissions on behalf of the Vulnerable Energy Consumers Coalition, paragraph 5.5

10.7 CNPI submits that its determination of distribution losses for CNPI – EOP are acceptable and ought to be approved by the Board.

10.8 In the case of CNPI – Fort Erie, Board staff submitted that the total distribution loss factor is acceptable for 2009.

10.9 In the case of CNPI – Fort Erie, VECC submitted that the total distribution loss factor is acceptable for 2009.

10.10 CNPI submits that its determination of distribution losses for CNPI – Fort Erie are acceptable and ought to be approved by the Board.

11.0 Deferral and Variance Accounts

11.1 In its Applications, CNPI – Fort Erie and CNPI – EOP requested disposition of account 1508, Other Regulatory Assets. Due to the relatively small balances in the accounts, CNPI request disposition over a one year period.

11.2 In the Oral Hearing and again in its Argument-in-Chief, CNPI stated that it is amenable to the disposition of account balances in accounts 1508, 1580, 1584, 1585 and 1588 if so directed by the Board.

11.3 CNPI provided the associated rate riders in response to Undertaking JT 2.2 and are repeated in the Board staff Final Submission on pages 27 and 29 for CNPI – EOP and CNPI – Fort Erie, respectively.

11.4 The values, in certain instances, when republished by Board staff in their submission are misstated. This is quite likely due to the small font size created when the EXCEL worksheet was converted to PDF format for submission. The tables showing the rate riders have been recreated from Undertaking JT 2.2 and shown below in (Sections 11.5 and 11.6) for clarification.

11.5 Deferral and Variance Account Rate Riders

Disposition of Accounts 1508, 1580, 1582, 1586 & 1588

Canadian Niagara Power Inc., Fort Erie

Residential	$/kWh	0.0009
GS < 50 kW	$/kWh	0.0009
GS > 50 kW	$/kW	0.3719
Unmetered Scattered Load	$/kWh	0.0009
Sentinel Lighting	$/kW	0.2987
Street Lighting	$/kW	0.2915

11.6 Deferral and Variance Account Rate Riders

Disposition of Accounts 1508, 1580, 1582, 1586 & 1588

Canadian Niagara Power Inc., Gananoque

Residential	$/kWh	0.0012
GS < 50 kW	$/kWh	0.0012
GS > 50 kW	$/kW	0.3799
Unmetered Scattered Load	$/kWh	0.0012
Sentinel Lighting	$/kW	0.4054
Street Lighting	$/kW	0.3993

11.7 In its Final Submission, Board staff had invited CNPI to comment on apparent "zero rate riders" for certain classes[36]. It was the apparent misstated values stemming from the small font size created when the EXCEL worksheet was converted to PDF format that caused this misunderstanding. The proper "non-zero" rate riders have now been clarified.

11.8 In both instances, CNPI has determined the rate riders on the basis of disposition over a three year period.

11.9 For both service areas, Board staff has submitted that CNPI provide:

[36] Board Staff Submission, page 29

- the closing balances corresponding to RSVA - Cost of Power account (excluding the global adjustment) and the Global Adjustment sub-account; and
- updated rate riders to reflect the allocation treatment discussed above (i.e., Cost of Power balance is attributable to all customers, whereas the Global Adjustment balance is attributable to only non-RPP customers).

11.10 CNPI will provide the RSVA – Cost of Power Account and sub-account in the manner requested and update the rate riders to reflect the allocation to the customers if so directed by the Board.

11.11 Board staff has submitted that, in both Applications, the Board should order disposition of all of the mentioned deferral and variance account balances not just the disposition of account 1508.[37]

11.12 VECC noted, similarly to Board staff, that the rate riders for CNPI – Fort Erie provided in Undertaking JT 2.2 appeared incorrect. This matter has been discussed and resolved in Sections 11.4 through 11.7.

11.13 VECC noted that there is a separate proceeding to examine the disposition of RSVA accounts and submits that it would be premature to approve the disposal of all the named accounts absent further testing. VECC submitted that the Board should consider only approving the initial request for disposal of account 1508 after satisfying itself that the proposed riders are just and reasonable.

11.14 CNPI takes no position in this matter.

11.15 SEC's comments related to deferral and variance accounts were limited to CNPI's request to establish an IFRS (International Financial Reporting

[37] Board Staff Submission, pages 27 & 29

System) deferral account. SEC submitted that such an account should not be established except as determined in EB-2008-0408, where the Board is considering IFRS issues in the proper context[38].

11.16 CNPI submits that an IFRS deferral account is the proper and prudent manner in which to record the costs associated with this initiative. CNPI understands the approval of an IFRS deferral account is not an indicator of future recovery through rates of the account balance.

11.17 CNPI submits that its request to establish an IRFS deferral is acceptable and ought to be approved by the Board.

12.0 Rate Design and Cost Allocation

12.1 Cost Allocation

12.1.1 CNPI has proposed cost allocations in its Applications which, in the opinion of CNPI, are a reasonable balance between achieving acceptable revenue to cost ratios, fairness to customers and respecting a notional 10% total bill impact.

12.1.2 Board staff has submitted that its transformer ownership allowance adjusted revenue to cost ratios should be the starting point rather than the combined informational filing ratios filed by CNPI. CNPI should rebalance rates such that revenue to cost ratios that are outside the Board policy range move to the closest boundary of the range. CNPI should assess the rate impact resulting from this action, particularly for residential customers in CNPI – EOP. For those rate classes, where the rate impact:

- is not excessive, the movement of the ratio should be in one step in the first year; and

[38] Final Submission of the School Energy Coalition, paragraph 49

- is excessive, the movement of the ratio should be in multiple steps, halfway to the closest boundary of the range in the first year, and in equal steps in the subsequent two years.

12.1.3 CNPI submits that the Board staff approach is a reasonable one and ought to be approved by the Board. Such approval would include a caveat that respects total bill impact.

12.1.4 VECC has also provided a comprehensive analysis of cost allocation. Similar to Board staff, VECC has raised the matter using transformer ownership allowance adjusted revenue to cost ratios should be the starting point.

12.1.5 VECC has noted that in the case of the CNPI – EOP and the Harmonized cost allocations CNPI has included the charges from Hydro One Networks for LV (now ST) service in the base distribution revenue requirement to be allocated.

VECC notes that CNPI has agreed that the corrected calculation could be included in its rate derivation. [39]

12.1.6 CNPI will comply with the direction of the Board in respect of treatment of Low Voltage in determining cost allocations.

12.1.7 Likewise SEC has also commented to the matter of cost allocation. SEC submitted that, with the implementation of the changes proposed, the GS>50KW and GS<50KW classes, containing most of the enterprises that drive the local economy and provide local services, will still be over contributing at a high level, and the Residential, Sentinel, Street and USL classes will still be under contributing in substantial amounts, but the level of the cross-subsidy will have been narrowed slightly. A movement in that direction is fair to all parties, while still leaving a considerable difference to be dealt with in the future.

[39] Final Submissions on behalf of the Vulnerable Energy Consumers Coalition, paragraph 8.6

12.1.8 All interest parties have presented valid positions respecting their constituents. CNPI submits that the Board takes a balanced approach to the implementation of cost allocation. An approach that achieves fairness amongst customer classes, does not unduly cause hardship to any class in achieving this balance and respects a notional bill impact. The direction should leave flexibility in rate design arising from the Board's Decision to consider the afore mentioned respects.

12.2 Retail Transmission Service Charges

12.2.1 CNPI - EOP determined revised retail transmission service charge rates base on the spread between historical retail transmission charges and revenue and on the retail transmission charges by Hydro One Networks Inc. at that time.

12.2.2 Board staff has submitted that it would be reasonable for CNPI – EOP to calculate revised retail transmission network and connection service charge rates which would capture both:

- the spread between historical transmission charges and revenue, and
- Hydro One Networks Inc.'s proposed 2009 over 2008 increase in its retail transmission rate for sub-transmission customers.

12.2.3 VECC submitted that CNPI – EOP revise its retail transmission service charge rates to reflect the Hydro One Networks Inc.'s proposed 2009 over 2008 increase in its retail transmission rate for sub-transmission customers.

12.2.4 VECC also invited CNPI to comment on the impact of historical timing differences between Hydro One Networks Inc.'s rate implementation and CNPI – EOP rate implementation.

12.2.5 CNPI – Fort Erie determined revised retail transmission service charge rates base on the spread between historical retail transmission charges and revenue and on revised Uniform Transmission Tariff.

12.2.6 Board staff has submitted that CNPI – Fort Erie's proposed increase (network and connection rates) which captures both the spread between historical transmission charges and revenue and the 2009 over 2008 uniform transmission rate increase is acceptable.

12.2.7 VECC also invited CNPI to comment on the impact of historical timing differences between implementation of Uniform Transmission Rates and CNPI – Fort Erie's rate implementation.

12.2.8 CNPI – EOP agrees with Board staff that it is reasonable for CNPI to re-calculate its retail transmission service charge rates taking into account the approved retail transmission rates being charged to CNPI – EOP by Hydro One Networks Inc.

CNPI – EOP will comply with Board direction in this matter.

12.2.9 CNPI – Fort Erie submits that its retail transmission service charge rates are acceptable and ought to be approved by the Board.

12.2.10 In response to VECC's invitation to comment on timing differences, CNPI submits that it has no control over the approval and implementation of Hydro One Networks Inc.'s retail transmission service charge rates or the Uniform Transmission Tariff and as a result timing differences are inevitable. The Retail Service Variant Accounts are designed to capture these differences and are working. It is likely that any resultant change to rates would be insignificant and any attempt at correcting for this timing difference is temporary.

12.3 Low Voltage Rate Adder

12.3.1 VECC has invited CNPI – EOP to address the impact of Hydro One Networks Inc.'s 2009 approved rates.[40]

12.3.2 CNPI – EOP's proposed low voltage rate adder in its Application is based on the then approved Hydro One Networks Inc. rates. In CNPI – EOP's rate design, CNPI – EOP has sought to recover $95,837. Based on the most recent Hydro One Networks Inc. rates;

- Monthly Service Charge - $188,
- Monthly Meter Charge - $588, and
- Facility Charge - $0.58 per kW per Month,

and using the same load forecast, CNPI – EOP estimates charges to be $95,700.

CNPI – EOP submits that this difference is minimal and does not impact rate design.

12.3.3 In paragraph 9.4, VECC noted that the allocation of the LV costs to customer classes is based on allocation factors derived from the 2006 EDR. VECC submitted that the allocation factors should be updated to reflect the 2009 forecast Retail Transmission Service Rate – Connection revenues by customer class.

12.3.4 CNPI – EOP agrees that such an exercise may be required given the significant redistribution of costs between the customer classes resulting from the loss of larger customers in Gananoque. If so directed by the Board, CNPI will adjust the low voltage allocation factors to reflect the 2009 Retail Transmission Service Rate – Connection Charge revenues.

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[40] Final Submissions on behalf of the Vulnerable Energy Consumers Coalition, paragraph 9.3

12.4 Specific Service Charges

12.4.1 CNPI, in both of its Applications, has requested to continue with its currently approved Specific Service Charges. Board staff has submitted that these charges are reasonable.

12.4.2 CNPI submits that its Specific Service Charges are acceptable and ought to be approved by the Board.

12.5 Smart Meters

12.5.1 CNPI has applied to continue its currently approved smart meter rate adder of $0.27 in Fort Erie and $0.26 in Gananoque per metered customer; and in a harmonized rate structure $0.27 per metered customer.

12.5.2 Board staff submitted that CNPI has complied with the policies and filing requirements of the Smart Meter Guideline. While CNPI has documented that it is becoming authorized under regulation and intends on deploying smart meters beginning in 2009, it is not seeking an increase in the smart meter funding adder. It could have done so. However, Board staff observed that the Smart Meter Guideline is not obligatory. Increasing the funding adder to $1.00 may help to mitigate future rate impacts when smart meters are fully deployed and the costs recoverable in rates, but CNPI has not proposed to increase the smart meter funding adder to mitigate rate impacts of this application.

12.5.3 Board staff submitted that CNPI’s proposal to retain the existing smart meter funding adder is reasonable. Board staff also takes no issue with CNPI’s proposal to harmonize the smart meter funding adder at $0.27 per month per metered customer.

12.5.4 VECC submitted that it has no issue with CNPI’s proposed smart meter adder.

12.5.5 CNPI submits that its proposed Smart Meter Rate Adder is acceptable and ought to be approved by the Board.

13.0 Rate Harmonization

13.1 Board staff has supported the methodology that CNPI has used in developing its proposed harmonization of rates. Board staff has submitted that the maintenance of unique charges associated with specific service area expenses such as the transmission and low voltage costs is appropriate as well the continuation of separate loss factors is appropriate.[41]

13.2 VECC has supported CNPI's proposal to harmonize rates for Fort Erie and Gananoque. VECC goes on to say, in paragraph 9.2, that it supports CNPI's attempts to mitigate residential rate impacts by adjusting the fixed and variable splits.

13.3 SEC has provided an extensive narrative in paragraphs 44 to 47 of its Final Submission. Harmonization of electricity distribution rates does require some adjustment of class allocations as well as the allocations between fixed and variable charges. CNPI has sought to attain a balance in its rate design to treat all classes equally and fairly. CNPI is amenable to further direction which strives to improve on this rate design.

13.4 In its Submission, Board staff submitted, in respect of harmonization, that there can be no fixed answer and that it must be addressed on a case by case basis. In these particular applications, Board staff submits that the proposals put forward by the Applicant are a reasonable blend of meeting the sometimes opposing objectives.

CNPI agrees with this assessment.

[41] Board Staff Submission, pages 38 & 39

14.0 Regulatory Costs

14.1 According to SEC, CNPI's regulatory costs amount to $475,000 and should be reduced by 50%. CNPI respectfully submits that SEC has mistakenly included the regulatory costs of the CNPI-Port Colborne application in its $475,000 figure. CNPI-Port Colborne's regulatory costs are not at issue in these final arguments. There are two separate rate applications that are the subject of these final arguments: CNPI - Fort Erie; and CNPI - Eastern Ontario Power. It would be improper to combine the regulatory costs of these two separate applications for the purpose of comparing regulatory costs to other utilities. As set out in the April 20, 2009 updates to the pre-filed evidence, CNPI - Fort Erie has included a total regulatory cost amount of $123,031, and has requested that $41,010 be included in the 2009 Test Year's operating costs. CNPI - Eastern Ontario Power has included a total regulatory cost amount of $110,771, and has requested that $36,924 be included in the 2009 Test Year's operating costs. CNPI submits that when viewed on an individual basis, these amounts are reasonable, even when compared to regulatory costs awarded by the Board in other proceedings. For example, in the Westario Power Inc. proceeding (EB-2008-0238), the Board allowed for the recovery of $240,000 in total regulatory costs. Furthermore, neither the other intervenors nor Board Staff objected to CNPI's proposed regulatory costs. For these reasons, CNPI's submits that its regulatory costs are reasonable and that SEC's argument should be rejected.

ALL OF WHICH IS RESPECTFULLY SUBMITTED