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**BY E-MAIL**

July 13, 2009

Board Secretary  
Ontario Energy Board  
2300 Yonge Street, Ste. 2701  
Toronto ON M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

**Re: Board Staff Submission – Recovery of PILs  
Espanola Regional Hydro Distribution Corporation  
Board File No. EB-2009-0056**

Please find attached Board staff's submission with respect to Espanola Regional Hydro Distribution Corporation's recovery of PILs request in the above proceeding. Please forward the attached document to Espanola Regional Hydro Distribution Corporation. and all other parties to this proceeding.

Sincerely,

*Original Signed By*

Martin Benum  
Advisor – Electricity Rates

Attachment



# **ONTARIO ENERGY BOARD**

## **STAFF SUBMISSION**

### **2009 ELECTRICITY DISTRIBUTION RATES**

**Espanola Regional Hydro Distribution  
Corporation**

**EB-2009-0056**

**July 13, 2009**

## INTRODUCTION

Espanola Regional Hydro Distribution Corporation ("Espanola") is an Ontario business corporation with its office in the town of Espanola, carrying on the business of distributing electricity within its licensed service territory (the towns of Espanola, Massey and Webbwood).

Espanola filed a cost of service rate application for its 2008 rates (EB-2007-0901). The decision was issued on June 3, 2008 with rates effective July 1, 2008. On November 11, 2008, Espanola filed an IRM based rate application (EB-2008-0173) for rates to be effective May 1, 2009. That decision and order was issued on March 13, 2009.

This submission reflects observations and concerns which arise from Board staff's review of the pre-filed evidence and interrogatory responses made by Espanola, and are intended to assist the Board in evaluating Espanola's application and in setting just and reasonable rates.

## Background

Espanola filed a Cost of Service based rate application for its 2008 rates (EB-2007-0901). In that application, it indicated that there was \$457,257 of loss carry-forwards available to offset PILs. As a result, no amount for PILs recovery was included by Espanola in the 2008 cost of service rate application.

As a result of a Board staff interrogatory in that proceeding, Espanola discovered that the amount of the loss carry-forward available at December 31, 2006 was in fact only \$115,272 and not \$457,257. The \$115,272 was applied to 2007 and there was no remaining loss carry-forward amount available for 2008.

The 2008 Cost of Service decision stated the following:

*The final PILs tax allowance for ratemaking purposes is determined after the Board makes its findings on other relevant parts of the Company's application. Espanola has not applied for PILs taxes to be recovered in 2008 rates as it has non-capital tax losses of \$457,257 that it can carry forward to shelter taxable income in 2008, and beyond.*

In its 2009 IRM application (EB-2008-0173), Espanola included a request for PILs recovery. Because it was outside the scope for an IRM application, the Panel disallowed the request as part of that proceeding in the Board's letter of acknowledgement.

## **THE APPLICATION**

As a result of the disallowance as part of the EB-2008-0173 proceeding, on February 18, 2009, Espanola made the present application (EB-2009-0056) in which it requested to have its May 1, 2009 distribution rates adjusted to include the recovery of PILs that it will be liable for in 2009 as it was identified in both its 2008 cost of service rate application and 2009 IRM application. The current rates do not reflect an allowance for PILs. The amount requested is \$29,101.

Espanola estimated that the impact of the application would result in an increase of about \$0.53 on a residential 1,000 kWh monthly bill, which is about a 1.6% increase in the delivery component of the bill.

The Board issued a Notice of Written Hearing and Procedural Order #1 on March 16, 2009. The parties identified in the EB-2008-0173 proceeding were deemed to be parties in this proceeding. Other than Board staff, no parties took an active role in the review. On March 30, 2009 Board staff filed interrogatories with Espanola. On April 1, 2009 Espanola requested that the Board allow an extension to April 24, 2009 for replies to interrogatories because a decision on a Notice of Objection from the Ontario Ministry of Finance ("MOF") was imminent and may have an impact the application. On April 21, 2009 Espanola requested an additional extension and that the current rates be declared interim as of May 1, 2009. On April 23, 2009 the Board approved Espanola's interim rate application.

Board staff's interrogatories identified that Espanola had filed a "Notice of Objection" ("NoO") with the MOF in respect to a reassessment of PILs for 2001, 2002, and 2003. Staff inquired if the MOF had ruled on the NoO and Espanola advised that they had recently learned that a decision was to be issued in the near future. Espanola requested repeated extensions of time to respond to the interrogatories pending receipt of the MOF decision.

On June 29, 2009 Espanola filed its responses to the interrogatories. As part of that filing, Espanola explained that while no decision had been made by the MOF, subsequent testing by its external auditors concluded that even with a favourable decision from the MOF, Espanola would still have used up all available loss carry forward and would be required to remit taxes post 2008 and therefore the inclusion of a PILs allowance in 2009 rates would still be required.

## **Discussion and Submission**

Board staff has no concerns with respect to either the need for or the quantum of Espanola's application for an allowance for PILs in the 2009 rates in the amount of \$29,101.

If the Board decides to allow the inclusion of the PILs allowance, Board staff submits that the amount be recovered by means of a rate rider for the duration of 2009. Board staff further submits that the effective date of the rate revision should be May 1, 2009, but that the implementation date for the rate rider be September 1, 2009 and be in effect until April 30, 2010. Because of the relatively small amount to be included, Board staff submits that the amount be allocated to the classes in proportion to the distribution revenues and the rate riders be applied on a volumetric basis.

Board staff would further recommend that the \$29,101 allowance for PILs then be included in the 2010 base rates.

– All of which is respectfully submitted –