



October 22, 2009

By E-mail and Courier

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

RE: Statement of Issue

Dear Ms. Walli:

Further to Ms. Hare's letter of October 7, 2009, the CLD agrees that it is important to have the Board address the threshold question of jurisdiction before proceeding with this matter. With respect to the proposed issue, it would be helpful to state it in a way that accurately includes the relevant facts and legislative provisions. The CLD proposes the following statement of the issue:

"Distribution rates approved by the Board under section 78 of the OEB Act effective March 1, 2002 reflected a revenue requirement including a PILs Proxy for the period October 1, 2001 to December 31, 2001. In December, 2002, the OEB Act was amended by S.O. 2002, c.23, which provided that, "if an order under section 78 was in effect on November 11, 2002, that order applies to electricity used on or after December 1, 2002." It further provided that applications for rates could only be made if approved by the Minister of Energy. The Minister of Energy permitted distribution rates to be adjusted to remove this 2001 PILs Proxy as of March, 2004. Does the OEB now have authority to change the PILs Proxy included in rate orders in effect during the period March, 2002 - March 2004 for the purposes of computing balances in the 1562 deferred PILs accounts?"

Yours truly,

Original signed by

Lynne Anderson
Chief Regulatory Affairs and Government Relations Officer
Hydro Ottawa

On behalf of the CLD



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