

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

AND IN THE MATTER OF a proceeding commenced by the
Ontario Energy Board on its own motion to determine the
accuracy of the final account balances with respect to account
1562 Deferred PILs (for the period October 1, 2001 to April 30,
2006) for certain 2008 and 2009 distribution rate applications
before the Board.

**SUBMISSION OF HYDRO ONE BRAMPTON NETWORKS INC.
REGARDING THE THRESHOLD QUESTION STATED IN PROCEDURAL ORDER NO. 6**

1. Hydro One Brampton Networks Inc. (hereinafter “Brampton”) has intervenor status in this proceeding.
2. Brampton has had an opportunity to review the submission of the Electricity Distributors Association (“EDA”) and, except as stated below, adopts and relies on all the submissions contained in the EDA’s submission, including the EDA’s support of the threshold question submitted by the Coalition of Large Distributors (“CLD”).
3. The so-called “stub period” for Brampton is the five-month period running from July 31 through December 31, 2001, rather than the three-month period running from October 1 through December 31, 2001, stated in the EDA’s submission and in the submission of other participants in this proceeding.

4. A portion of the monies in Brampton's deferral account 1562 results from an occurrence within the subject matter of this proceeding but not addressed by the EDA's submission.
5. Upon Brampton's purchase by Hydro One Inc. on July 31, 2001 (the commencement of Brampton's five-month "stub period"), a debt/equity capital structure was established, based on balance sheet values which included goodwill arising from the purchase.
6. The result was that the actual debt levels exceeded the deemed level used for rate-making purposes, resulting in the accumulation of a liability. The disposition of this liability would reduce future net income.
7. One of the true-up items included in the instructions issued by the Board for the SIMPIL model referred to in the EDA's submission required the inclusion (in account 1562) of any income tax differential related to interest in excess of the deemed levels.
8. Brampton submits that it would be more appropriate to make adjustments to the account 1562 balance through stand-alone analysis supported by the annual impacts on PILS tax resulting from differences in deemed vs. actual debt/equity structure, rather than by using the actual capital structure that was in place at the time the Board approved the deemed structure.

9. Brampton submits that the approach of the SIMPIL model is to effectively isolate the tax differences arising from the interest true-up, the disposition of which would be both punitive and arbitrary. That approach effectively mandates distributors to retain the deemed debt/equity structure and not permit the shareholder to establish a debt/equity structure based on its business requirements.

10. Brampton therefore submits that it would be inappropriate and contrary to recognized rate-making principles for the SIMPIL model to be used in the manner described in the preceding paragraph.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 20th day of November, 2009.

ORIGINAL SIGNED BY

Michael Engelberg
Counsel for Hydro One Brampton Networks Inc.