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January 18, 2010

BY EMAIL & COURIER

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge St, Suite 2701
Toronto ON M4P 1E4

Dear Ms. Walli:

**Board File No. EB-2009-0259
Burlington Hydro Inc. – 2010 Cost of Service Application
Energy Probe Argument**

Pursuant to Procedural Order No. 2, issued by the Board on December 4, 2009, please find two hard copies of the Argument of Energy Probe Research Foundation (Energy Probe) in the EB-2009-0259 proceeding. An electronic version of this communication will be forwarded in PDF format.

Should you require additional information, please do not hesitate to contact me.

Yours truly,

David S. MacIntosh
Case Manager

cc: Michael Kysley, Burlington Hydro Inc. (By email)
Randy Aiken, Aiken & Associates (By email)
Intervenors of Record (By email)

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

AND IN THE MATTER OF an application by Burlington
Hydro Inc. for an order approving just and reasonable rates
and other charges for electricity distribution to be effective
May 1, 2010.

**ENERGY PROBE RESEARCH FOUNDATION
("ENERGY PROBE")**

ARGUMENT

January 18, 2010

**BURLINGTON HYDRO INC.
2010 RATES**

EB-2009-0259

ARGUMENT OF ENERGY PROBE RESEARCH FOUNDATION

A - INTRODUCTION

This is the Argument of the Energy Probe Research Foundation (“Energy Probe”) related to the setting of 2010 rates for Burlington Hydro Inc. (“BHI”) effective May 1, 2010.

This Argument has been structured to reflect the major components of the BHI evidence. Where readily available, Energy Probe has attempted to provide the impact of its submissions on the revenue requirement of BHI. However, in order to minimize intervenor time and costs, a comprehensive impact analysis has not been undertaken. If the Board accepts any or all of the Energy Probe submissions, it is assumed that the direct and indirect impacts will be determined by BHI and reviewed by intervenors and Board Staff through the associated draft rate order. An example of a comprehensive impact analysis would include the direct impact on rate base of a reduction in \$10,000 in OM&A expenses and a \$25,000 reduction in capital expenditures. Depreciation expense would also be directly impacted by the capital expenditure change. The indirect impacts would include the change in total cost of capital and taxes (due to CCA and interest expense changes) and the change in the working capital allowance.

BHI is forecasting a significant deficiency. As shown in the Revenue Sufficiency/Deficiency sheet in the Revenue Requirement Worksheets at Exhibit 1, Tab 2, Schedule 6, the gross revenue deficiency is \$3,255,392 on forecasted total net revenues (assuming no rate changes) of \$28,062,422. The deficiency represents an increase in total revenues of nearly 12%.

Adjustments to the Cost of Service Application

BHI has made a number of adjustments to the cost of service application based on interrogatory responses filed throughout this proceeding. A summary of the changes made to the application was provided by BHI in response to Board Staff Supplemental Interrogatory # 8. These changes, in summary, include a reduction in rate base of \$162,050, an increase in miscellaneous revenues of \$175,417, an increase in operating costs of \$52,000 and a reduction in capital costs of \$13,321. There is also an increase in the revenue requirement of \$728,991 associated with the increase in the return on equity to 9.75%. Energy Probe accepts these changes, subject to any further comments provided in the various sections that follow.

The resulting revenue deficiency of the adjustments noted above is also shown in the response to Board Staff Supplemental Interrogatory # 8. The gross revenue deficiency is now \$4,172,323 on forecasted total net revenues (assuming no rate changes) of \$28,237,839. The deficiency represents an increase in total revenues of nearly 15%.

B - RATE BASE

a) Capital Expenditures

i) Proposed Changes

Based on the response to VECC Interrogatories #9 (d), #40 and Board Staff Supplemental Interrogatory #8, BHI has indicated that there will be reduced capital additions in 2009 from that forecast of \$350,000 associated with IT replacement at the Cumberland TS that will now not be completed until 2010. Energy Probe submits that the removal from the 2009 capital additions and the associated impact on the 2010 rate base are appropriate and should be accepted by the Board.

ii) Elimination of the Provincial Sales Tax

As noted below in Section F – Taxes, part c) HST Harmonization, Energy Probe submits that a reduction of \$172,465 related to the elimination of the provincial sales tax effective July 1, 2010 is an appropriate reduction that should be made to the 2010 capital additions forecast.

iii) Reduction in 2009 Capital Expenditures

BHI has forecast capital expenditures in the 2009 bridge year of \$8,446,600 (Exhibit 2, Tab 3, Schedule 1, page 4). The response to Energy Probe Interrogatory #7 seems to suggest that despite the deferral to 2010 of a number of capital projects, the capital expenditures for 2009 were still on target to meet the forecast. In particular, the table attached to the response showing the capital expenditures to date shows year-to-date expenditures of \$6.523 million, with the remainder to be spent of \$1.923 million, yielding a total of \$8.446 million. The written response also indicates that while there are a number of projects that have been deferred to 2010, a number of other capital projects related primarily to municipal/regional/MTO projects have grown in scope based on information that was not available when developing the budget.

Energy Probe submits that the contention put forward by BHI that the original 2009 capital expenditure budget should be maintained for 2009 because of the growth in scope of some projects offsets the deferral of other projects to 2010 should be rejected by the Board.

Energy Probe notes that BHI did not quantify the cost of the projects deferred from 2009 to 2010. However, a matching of the projects listed as being deferred from 2009 to 2010 in the response to Energy Probe Interrogatory #7 with the capital costs forecast for each of these projects in 2009 as shown in Exhibit 2, Tab 4, Schedule 1, page 6 of 7, shows that that these projects total \$1,644,000. As discussed below, BHI has an updated capital expenditure forecast that is \$900,000 below that filed as the bridge year forecast. Therefore, it would appear that the growth in scope of other 2009 capital expenditures was approximately \$744,000, significantly lower than the costs of the projects deferred.

Energy Probe further notes that the date of the response to the Energy Probe interrogatory is November 20, 2009. This is a full month after the BHI Board of Directors meeting at which material was presented that indicated there was a significant reduction in the capital expenditures for 2009. The following paragraph is taken from the second page of the CFO Discussion and Analysis that was included in the package presented to the BHI Board of Directors on October 20, 2009 filed in response to SEC Interrogatory # 3:

“Capex, before Smart Meters, is forecast to be below budget by \$900k. This is the result of deferral of a number of projects until 2010. It was decided to defer some projects to assist in managing reduced cash flows due to lower distribution revenues than budgeted.”

In response to SEC Interrogatory #28 (d), BHI provided a table showing the changes in free cash flow from the 2009 budget (bridge year) forecast to the 2009 update. That table shows a reduction of \$844,000 in capital expenditures, from the \$8.447 million included in the bridge year forecast to the updated value of \$7.603 million. Energy Probe assumes that the difference between the \$900,000 referenced in the Board of Directors material and the \$844,000 shown in the table reflects that a portion of the \$900,000 reduction in capital expenditures would have been financed by capital contributions.

As noted above and as shown in the response to SEC Interrogatory #28 (d), the costs of the deferred projects totals \$900,000. Of this amount, BHI has reflected the deferral of only one project (wholesale metering at Cumberland TS) in the amount of \$350,000 in the response to Board Staff Supplemental Interrogatory #8. Energy Probe submits that the deferral of the project to 2009 is consistent with the evidence and should be reflected in the reduction of the 2010 rate base as proposed by BHI.

Energy Probe submits that the Board should direct BHI to reflect the remaining \$494,000 (\$844,000 less \$350,000) associated with projects deferred from 2009 to 2010 in the calculation of the 2010 rate base. Energy Probe notes that this deferral will also have impacts on the depreciation expense and capital cost allowance calculation for 2010.

Energy Probe notes that BHI has provided responses to various interrogatories that do not appear to be consistent with one another or the original evidence. The following table shows the 2009 projects that were listed as being deferred to 2010 in the response to Energy Probe Interrogatory #7. The cost associated with each of the projects listed is taken from page 6 of Exhibit 2, Tab 4, Schedule 1. The cost associated with the projects listed in the response to SEC Interrogatory #28 is provided in the third column. Finally, the fourth column provides the difference in the costs.

As illustrated in the table, the total capital expenditures for the projects listed as being deferred in the Energy Probe interrogatory from 2009 to 2010 is \$1,644,000, while the total in the SEC response totals \$900,000. This difference is driven by two factors.

The first factor is a reduction related to the Cable Rebuild project. The SEC response includes a cost of \$500,000 for this project despite it only has a cost of \$25,000 in 2009. Energy Probe notes that there are costs of \$550,000 for this project included in the 2010 capital expenditure forecast. This factor results in the Energy Probe response being \$475,000 lower than the SEC response.

The second factor driving the difference more than offsets the impact of the cable rebuild project. A number of projects are not included in the SEC response that are included in the Energy Probe response. Ignoring the Downtown Lakeshore Rd. project, these projects have a total 2009 forecast cost of \$469,000, essentially offsetting the difference related to the cable rebuild project. In addition, there is a \$750,000 difference related to the Downtown Lakeshore Rd. project. The net difference is that the Energy Probe response shows \$744,000 more in 2009 costs deferred to 2010 than does the SEC response.

<u>Energy Probe #7</u>	<u>E2/T4/S1/p6</u>	<u>SEC #28</u>	<u>Difference</u>
<u>Metering</u>			
1. Wholesale metering at Cumberland TS	350,000	350,000	0
2. Metering upgrades, 2.5 to 3 element	25,000	25,000	0
3. Relocate wholesale metering to Palermo TS	84,000		84,000
<u>Underground Projects</u>			
1. 12 Mile Trail Conversion	180,000		180,000
2. Downtown Lakeshore Rd., 27.6 kV feeder ext.	750,000		750,000
3. Cable Rebuild Project North Brant Hills area	25,000	500,000	(475,000)
<u>Overhead Projects</u>			
1. Rebuild Crossing at Plains Rd. bridge	185,000		185,000
2. Fault Indicators	25,000	25,000	0
<u>Stations</u>			
1. Metalclad equipment refurbish/Paint	<u>20,000</u>		<u>20,000</u>
TOTAL	<u>1,644,000</u>	<u>900,000</u>	<u>744,000</u>

Energy Probe submits that BHI should clarify this difference in their reply submissions. In particular, it may be that the numbers are more or less consistent with the exception of the Downtown Lakeshore Rd. project since the difference excluding this project would only be \$6,000. The Downtown Lakeshore Rd. project deferral was included in the interrogatory response which is dated November 20, 2009, while the \$900,000 reduction in 2009 capital expenditures came from an October 20, 2009 report to the Board of Directors.

As indicated in the Energy Probe response, the Downtown Lakeshore Rd. project is developer and demand driven. It may have been deferred based on information that was received after the Board of Directors meeting. The evidence related to this project indicates that the developer will be expected to make a significant capital contribution (Exhibit 2, Tab 4, Schedule 7, page 4). However, it is not apparent what portion of the \$750,000 would be offset by a contribution from the developer. Energy Probe submits that the net cost of this project should be a further reduction to the 2009 capital additions used in determination of the 2010 rate base.

iv) Level of 2010 Capital Expenditures

As shown in Exhibit 2, Tab 3, Schedule 1, page 5, BHI is forecasting net capital additions in the 2010 test year of \$8,836,100 (inclusive of contributions and grants). Based on the deferral of a net amount of \$844,000 in 2009 to 2010 referred to above, this would increase the net 2010 additions to \$9,680,100.

In light of the fact that BHI was able to reduce its net capital additions in 2009 by 10% in order to manage its free cash flow, Energy Probe submits that it would be reasonable for the Board to reduce the allowed capital expenditures by an equivalent amount. This reduction would exclude the \$844,000 in expenditures deferred from 2009. In other words, Energy Probe submits that BHI should be directed to defer approximately \$880,000 of the original \$8,836,100 forecast for 2010 to future years. This would result in total 2010 capital additions of approximately \$8.8 million.

v) Shareholder Capital Contributions

In the response to VECC Interrogatory #8 (b) it was revealed that BHI does not require its shareholder, the City of Burlington, to pay any capital contributions for permanent asset modifications or line relocations for road work reconstruction work, sidewalk installations and bike path installations. BHI does, however, require the MTO to pay for a portion of the costs for asset modifications or line relocations with the MTO right of ways.

In response to SEC Interrogatory #33, BHI filed a Shareholder Direction agreement dated December 7, 1999. In the Operations Policy portion of the agreement (Section 7.4) it is stated at part (h) that Burlington Hydro will:

“on service corridors, public highways or municipally owned land relocate hydro facilities for roadway or drainage improvements to the satisfaction of the Municipal Engineer at no cost to the City”.

Energy Probe submits that it is not appropriate to require the ratepayers to bear the costs associated with relocations requested by the shareholder. A similar arrangement should be applicable to the shareholder as is applicable to the MTO. Energy Probe does not know the impact of requiring the shareholder to provide capital contributions in the 2010 test year, but submits that if the Board directs to BHI to do so, BHI should provide an estimate to the Board and intervenors of the amount.

b) Working Capital

i) Cost of Power Methodology

Energy Probe does not support the methodology used by BHI to calculate the commodity component of the cost of power. BHI has used a single rate per kWh regardless of whether the customer is an RPP or non-RPP customer.

Energy Probe submits that the estimation of the kWh's that are associated with RPP consumers and the kWh's associated with non-RPP consumers and the application of the appropriate prices to these different sets of volumes to calculate the cost of power component of the working capital allowance is appropriate. This is especially important for a utility like BHI where the working capital allowance associated with the power supply expense (excluding transmission and wholesale costs included in the cost of power) represents nearly 15% of the total rate base. It is imperative to estimate as accurately as possible the impact on rate base of the commodity cost of power.

Energy Probe Interrogatory # 5 requested that the BHI update the cost of power component of the working capital allowance to reflect the October 15, 2009 RPP Report and to provide the calculation if the RPP and non-RPP volumes were used. It is clear that the use of RPP and non-RPP volumes has a significant impact on the cost of power. Based on the methodology used by BHI, the commodity cost of power is \$104,456,406 (Energy Probe Interrogatory # 5 (a)) if the RPP/non-RPP split is ignored, while based on the 52.48%/47.52% RPP/non-RPP volume split (Energy Probe Interrogatory # 5 (c)), the

cost of power declines to \$100,972,150 (Energy Probe Interrogatory # 5 (d)). This is a reduction of 3.3% or nearly \$3.5 million, which translates into a reduction in rate base of more than \$520,000.

Further, as noted in the response to Energy Probe Interrogatory # 40, BHI did not include the movement of any further customers/volumes to non-RPP status related to the November 2009 eligibility change. However, they did indicate that approximately 1.3% of total sales would be a proxy for this change. Energy Probe submits that this would increase the non-RPP component of volumes from 52.48% to approximately 53.78% and decrease the RPP component by the same amount. This 1.3% of the total volumes, when multiplied by the price differential for RPP and non-RPP volumes would result in a further reduction in the cost of power of approximately \$83,000 and a corresponding reduction in rate base of more than \$12,000 over and above the \$520,000 noted above.

Energy Probe submits that the use of separate prices for RPP and non-RPP volumes provides a more accurate estimate of the commodity cost of power. Given the significant impact on rate base, it is submitted that the Board should direct the distributor to reflect this methodology in its working capital allowance calculation.

ii) Cost of Power Update

Consistent with Board Decisions related to 2009 cost of service rebasing applications (for example, EB-2008-0247 Decision and Order dated July 7, 2009 for Welland Hydro-Electric System Corp., page 19), Energy Probe submits that the cost of power should be updated to reflect the most recent cost of power forecast presented to the Board by Navigant and to reflect the latest Board approved transmission charges at the time of the Board's Decision in this proceeding.

iii) Changes to Controllable Expenses

Energy Probe submits that if the Board makes any adjustments to the controllable OM&A expenses in its Decision, these changes should be reflected in the calculation of the working capital component of rate base.

iv) Requirement for a Lead/Lag Study

Energy Probe submits that the Board should direct BHI to undertake a lead/lag study in time for its next rates rebasing cost of service application. As shown in page 1 of Exhibit 2, Tab 1, Schedule 1, the 2010 test year working capital allowance is more than \$21.5 million and represents more than 20% of the total rate base. This means that a one percentage point change in the 15% factor currently used to estimate rate base is equivalent to more than \$1.4 million in rate base and represents nearly 1.4% of total rate base.

If the Board is concerned with the potential costs associated with a full lead/lag study, then Energy Probe submits that a lead/lag study should be undertaken for the cost of power component of the working capital calculation. As shown in Exhibit 2, Tab 4, Schedule 1, the cost of power (including commodity costs, transmission costs, rural rate assistance and wholesale market service costs) accounts for approximately 90% of the total working capital allowance. A review of these expenses should be undertaken because of their significant impact on rates.

C - REVENUES

a) Forecast Methodology

BHI has used a three step methodology to generate a load forecast. This methodology is described in detail in Exhibit 3, Tab 2, Schedule 1, beginning at page 7. The first step in the methodology is to develop a total system weather normalized purchased energy forecast based on a multifactor regression model that incorporates historical load, weather and economic data. The second step is the adjustment of the weather normalized purchased energy forecast by a historical loss factor to produce a weather normalized billed energy forecast. The final step is to disaggregate the total billed energy forecast into forecasts for the various rate classes using forecasted customer numbers and historical usage patterns.

Energy Probe supports the use of the methodology used by BHI. Although Energy Probe believes that the regression analysis should be conducted on individual rate classes and their associated monthly billed kWhs, it is aware that sufficient reliable data on a rate class basis is not yet available for this approach to produce reliable results.

Energy Probe submits that the approach used by BHI is an improvement to that based on the normalized average consumption (“NAC”) methodology. The approach taken by BHI allows the impact of weather (heating degree days and cooling degrees days) and of the economy (Ontario real gross domestic product) and calendar factors to be taken into account. The NAC approach relies on average consumption in one year only and does not make adjustments for economic activity or changes in the weather.

The NAC approach was an acceptable first step for forecasting volumes. However, as we move further away from the 2004 data used in the NAC methodology, the reliability of this approach can be expected to decline as the 2004 data will not include the impact of any trends from 2005 to the current time. Many factors affecting electricity use have changed significantly since 2004, including CDM, natural conservation, increased penetration of large use electric appliances such as plasma and LCD televisions, and in-floor radiant heating for rooms are just some of the changes that have occurred over the last number of years.

While supporting the methodology used by BHI, Energy Probe does have concerns with practical aspects of what BHI has used to generate its forecast. These concerns generally mirror those of Board Staff provided in the Staff Submission dated January 11, 2010.

In particular, Energy Probe submits that BHI has put too much significance on the R^2 statistic that relates to the goodness of fit. A good fit is important. However, a good fit is irrelevant if some of the estimated coefficients have incorrect signs or are statistically no different from zero with a reasonable level of confidence.

The equation used by BHI is shown at pages 9 & 10 of Exhibit 3, Tab 2, Schedule 1. The deficiency in the BHI equation is that the estimated coefficient on the number of customers variable has the wrong sign. An increase in the number of customers, all else equal, should result in increased kWh's purchased and consumed, not a reduction.

In the response provided to Energy Probe Interrogatory #11, BHI has tried to rationalize the negative coefficient associated with the number of customers. It indicated that replacing the number of customers with the population as an explanatory variable resulted in the same negative coefficient. Not including the number of customers or the population resulted in a lower R^2 , indicating a decline in the goodness of fit. Finally, BHI indicated that it believed the negative coefficient on number of customers was "somewhat associated with the CDM savings that have occurred after 2005".

Energy Probe will comment on the CDM justification first. A change in the number of customers may have an impact on the level of CDM. For example, incremental customers can increase the CDM savings if they replace a 60 watt incandescent light bulb with a 13 watt CFL. This is because without the additional customer, the incremental savings would not occur. However, this does not mean that the total billed energy purchased and delivered to all customers goes down. In fact, the opposite is true. In the example provided, the new customer will consume power when he turns on the CFL light. This may ultimately reduce average consumption per customer, but it will increase total consumption. This provides the a priori requirement for a positive sign on the number of customers in an equation that is based on consumption and not on average consumption per customer.

The emphasis on the goodness of fit is also overblown in the rationale used by BHI. The R^2 statistic is the coefficient of determination for a regression equation and represents the proportion of the total variance in a dependent variable that is explained by the regression. In other words, the R^2 statistic is a measure of the explanatory power of the

regression. However, it is widely acknowledged that the use of the R^2 figure must be used carefully in comparing regressions¹.

For example, the value of R^2 will remain the same or increase as more explanatory variables are added to the equation – it cannot decrease. This means that the addition of an explanatory variable such as a random variable totally unrelated to the dependent variable can increase the R^2 value. This means that an increase in the R^2 value by itself does not mean the equation will provide a better forecast.

It is also inappropriate to compare the R^2 of two regression equations with different numbers of explanatory variables. It is an appropriate use of the R^2 to compare regressions if the number of explanatory variables is the same.

Comparison of the R^2 value from the equation without the number of customers as an explanatory variable to the equation with it included as done by BHI is invalid since the two equations do not have the same number of explanatory variables.

A more accurate comparison of the goodness of fit across equations that have a different number of explanatory variables is the adjusted coefficient of determination, or the adjusted R^2 . The adjusted R^2 take into account the number of explanatory variables. It can decline as the number of explanatory variables is increased, effectively indicating that the added variables are masking some of the explanatory power of other variables.

Energy Probe submits that econometric modeling is an inexact science. As with any science there are basic tenants that need to be followed and observed. Energy Probe agrees with the Staff submission that econometric modeling is not merely a matter of regressing demand against a list of potential explanatory variables and accepting the outcome based on the best R^2 statistic. The estimated model needs to pass basic reasonableness tests, the first of which is – Are the coefficients plausible in sign? – and

¹ See, for example, *Econometric Models, Techniques, & Applications* by Michael D. Intriligator, 1978, Prentice-Hall, Inc.

the second of which is – Are the estimates significant at a reasonable level of confidence? If not, it does not matter what the R^2 is. The R^2 , or more accurately, the adjusted R^2 is relevant in comparing equations that first pass the reasonableness tests.

The adjusted R^2 statistic for the equation estimated in response to Board Staff Supplemental Interrogatory #4 which removes the number of customers as an explanatory variable is 94.1%. This is similar to the 94.7% for the BHI equation but has the added appeal that all the coefficients have the proper sign.

Energy Probe submits that the Board should direct BHI to utilize the equation provided in the response to the Staff supplemental interrogatory to forecast the purchased volumes. This equation is superior to that used by BHI in that all of the estimated coefficients have signs that are expected and they are all statistically significant a high confidence level.

A comparison of the estimated coefficients between the two equations shows that with the exception of the coefficient associated with the Ontario Real GDP Monthly Index, the coefficients do not change significantly. There is, however, a significant change in the coefficient associated with the Ontario Real GDP Monthly Index. The value of coefficient falls by almost 50% from that estimated in the BHI equation. The t-statistic associated with this coefficient, however, significantly increases from 8.3 to more than 32 indicating a significantly higher level of confidence associated with the value in the new equation. Energy Probe submits that this is most likely the result of a high degree of multicollinearity between the Ontario Real GDP Monthly Index and the number of customers. Both variables have been increasing over the historical period used by BHI to estimate the equation.

The BHI equation is essentially trying to assign causality to two variables that are essentially exhibiting the same pattern of change over the period being used for estimation. Elimination of the number of customers as an explanatory variable effectively eliminates this schizophrenia in the equation.

b) Adjustments to the Forecast

As noted above, Energy Probe submits that the Board should direct BHI to use the equation contained in the response to Board Staff Supplemental Interrogatory #4 to forecast the purchased energy volumes for 2010. Based on the response provide to that interrogatory, the forecast would be 1,772.6 GWh. This compares to the figure of 1,681.1 GWh used by BHI (Exhibit 3, Tab 2, Schedule 1, page 12). When adjusted for the loss factor of 4.07%, this revised forecast results in a figure of 1,703.3 GWh for the weather normalized billed energy forecast as compared to the figure of 1,615.3 GWh shown on page 13 of Exhibit 3, Tab 2, Schedule 1. This is an increase of nearly 5.5%. Energy Probe submits that this is a more reasonable forecast than that provided by BHI and the NAC forecast of 1,762.4 recommended by Board Staff in their Submission.

Energy Probe does not take issue with the use of the 13 year average for weather in forecasting the 2010 energy purchased forecast.

Energy Probe is concerned, however, with the assumptions used for the weather sensitivity portion of the forecast methodology that adjusts the non-normalized weather billed energy forecast by rate class to align with the total weather normalized billed energy forecast. In particular, Energy Probe submits that the assumption that 100% of residential and GS < 50 kW volumes are weather sensitive (Exhibit 3, Tab 2, Schedule 1, Table 3-15) is not appropriate for BHI.

Energy Probe submits that a substantial portion of the volumes for residential and GS < 50 kW customers is independent of the weather. The Board is aware that residents and businesses in the City of Burlington have access to natural gas. It can reasonably be assumed that the vast majority of these customers use natural gas for space heating. Electricity is used for numerous non-weather related applications including substantial volumes related to lighting, microwaves, stoves, refrigerators, computers, televisions, dishwashers and numerous small kitchen appliances. Electricity used for water heating is also non-weather related. Weather related uses are basically for air conditioning, furnace fans and small room space heaters.

In light of the above, Energy Probe submits that a more reasonable assumption is that 50% of volumes consumed by residential and GS < 50 kW customers are weather-related. Even this percentage may be too high. However, for purposes of this application Energy Probe submits it is a better assumption to be used than 100%. The impact on the revenue deficiency of using this assumption in place of that used by BHI is a reduction of almost \$85,000 as shown in the response to Energy Probe Interrogatory #14.

c) Other Distribution Revenue

In its original filing, BHI had a 2010 forecast for total other distribution revenue of \$1,583,902 (Exhibit 3, Tab 3, page 1). In response to VECC Interrogatory #45, BHI indicated that SSA administration fees in the amount of \$175,417 had been omitted from the other distribution revenue forecast. BHI has accepted the inclusion of this additional revenue in the calculation of the revenue deficiency and in calculating the amount to be recovered through distribution charges (Board Staff Supplemental Interrogatory #8). Energy Probe submits that this proposal is appropriate.

Apart from the addition to other distribution revenue noted above, Energy Probe submits that there should be two other adjustments to the revenue forecast.

The first adjustment relates to the forecast of specific service charges. The forecast for the test year of \$846,985 shown in Exhibit 3, Tab 3, page 1 is approximately \$110,000 lower than the forecast for 2009. The actual levels recorded in 2007 and 2008 are similar to the forecast for 2009.

In response to Energy Probe Interrogatory #43, BHI provided a number of reasons why the 2010 forecast should be lower than the 2007 or 2008 figures. As indicated in that response there was a number of non-recurring revenues received in those years. Energy Probe accepts this for purposes of comparing the 2010 forecast to 2007 and 2008.

However, the forecast for 2009, based on year-to-date September 2009 data suggests that the level of specific service charges will be similar to the level recorded in 2009. In fact, in the interrogatory response to Energy Probe, BHI stated that it was reasonable to forecast the 2009 specific service charges, exclude the \$113,000 in one time revenue, at the same level of \$944,000 as recorded in 2008. This outcome can also be seen in the response to Energy Probe Interrogatory #15. As shown there, the September year-to-date specific service charges of \$732,412, when adjusted to remove the \$113,000 in one time revenue received in 2009 (as explained in the response to Energy Probe Interrogatory #16 (a)) shows the 2009 charges at virtually the same level recorded over the same period in 2008.

Energy Probe submits that BHI has not provided any evidence that would account for the decrease of approximately \$100,000 in 2010 as compared to the projection of \$944,000 for 2009 (excluding the one time revenue of \$113,000). Energy Probe submits that if there is any additional one-time revenue in 2009, as there was in each of 2007 and 2008, it is reasonable to expect a similar level of one-time revenue in 2010. Energy Probe therefore submits that the 2010 forecast for specific service charges should be increased by \$100,000 to a level comparable to the 2007 and 2008 actual levels and projected level for 2009.

The second adjustment that Energy Probe is proposing is related to revenue related to rent from electric property. In the Shareholder Direction agreement filed in response to SEC Interrogatory #33, Section 7.4 Operations Policy includes a clause (part (g)) that states that Burlington Hydro will:

“permit the city to use hydro poles for street lighting, traffic signals, communication signals and signs free of charge. Any subsequent relocation of these facilities shall be free of charge to the City”.

Energy Probe submits that it is inappropriate for BHI not to charge the Board approved rental rates for use of its poles to its shareholder. Energy Probe submits that the Board should deem an amount of revenue that should be charged to the city for the use of the poles. If BHI is unable to provide a reasonably accurate estimate of what the revenues from the city would be in 2010 in preparation of the draft rate order for this proceeding following the Board's Decision, then Energy Probe submits that a deferral account should be established and BHI should be directed to place an accurate estimate of the deemed revenue in this account on an annual basis for clearance to customers in the future.

D - OM&A EXPENSES

Energy Probe has reviewed the change in OM&A costs on the basis of both an overall or envelope approach (part (a) below) as well as specific adjustments of individual expenses (part (b) below) arrived at through a more comprehensive review of the OM&A expenses.

a) Overall Increase in OM&A Costs

BHI is forecasting total OM&A costs, excluding depreciation, PILS and interest costs of \$14,796,994 for the 2010 test year (Board Staff Supplemental Interrogatory #8). This is an increase of 5.4% in 2010 from the level of \$14,036,567 forecast for the 2009 bridge year.

The following table is based on the information provided in the table on page 1 of Exhibit 4, Tab 1, with the 2010 figure adjusted to reflect the response to Board Staff Supplemental Interrogatory #8.

	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
Total OM&A	12,090,104	12,692,225	13,045,099	14,036,567	14,796,994
% change		5.0%	2.8%	7.6%	5.4%

In addition to the 5.4% increase in 2010, BHI is forecasting an increase in 2009 OM&A costs of 7.6%. The average increase forecast by BHI for 2009 and 2010 is 6.5%. Energy Probe submits this compound annual increase in 2009 and 2010 is not appropriate.

In response to SEC Interrogatory #3, BHI provided a package of information that was presented to the BHI Board of Directors on October 20, 2009. The OM&A information provided in this update indicates OM&A expenditures for 2009 that are significantly below those forecast by BHI for the 2009 bridge year.

In response to SEC Interrogatory #28 (h), BHI provided a comparison on an account by account basis to show the variance between the 2009 bridge year forecast that totaled \$14,036,568 and the 2009 update that totaled \$13,355,482. A review of the table provided in the response shows that the reduction in total OM&A costs of more than \$680,000 or nearly 5% of the bridge year forecast is spread across most categories of expenditures. Operations are down nearly \$200,000; maintenance costs are down more than \$365,000; billing and collecting has decline by \$22,000; community relations are down more than \$6,000; administrative and general expenses are down \$89,000.

BHI does note that \$108,348 of the reduction in operations costs was the result of a temporary transfer of station maintenance staff to the meter department to assist in the smart meter change out of commercial meters. Energy Probe submits that it is appropriate to add this amount back to the 2009 updated OM&A costs because it was a temporary situation. This would increase the 2009 update figure to \$13,463,830.

The amended 2009 update OM&A cost of \$13,463,830 represents an increase from the actual 2008 expenditures of 3.2%. Energy Probe submits that this is a reasonable increase for 2009 given the 5.0% increase recorded in 2007 and the 2.8% recorded in 2008. However, based on the amended 2009 update, the increase in 2010 to \$14,796,994 is 9.9%. Energy Probe submits that this level of increase in the test year is not warranted.

Energy Probe submits that the original increase of 5.4% forecast by BHI for the increase in the 2010 level of expenses as compared to the forecast for 2009 is the maximum increase that the Board should allow, even though such an increase would be higher than the increases in any of the previous years.

Applying an increase of 5.4% to the amended 2009 update figure of \$13,463,830 yields a 2010 forecast of \$14,190,877. This, in turn, is a reduction of \$606,117 from the level currently included in the test year revenue requirement.

Energy Probe has also reviewed the evidence related to the average OM&A cost per customer forecast. BHI confirmed that based on the Comparison of Ontario Electricity Distributors Costs (EB-2006-0268), updated with 2007 data issued June 25, 2008 and last updated December 4, 2008, it had an average OM&A cost per customer over the 2005 through 2007 period of \$196, while the relevant cohort (Mid-Size GTA Medium-High Undergrounding) average was \$182 (Energy Probe Interrogatory #23). In other words, the BHI average cost was 7.7% above the cohort average. The corresponding figures for 2007 were \$206 for BHI and \$188 for the cohort. For 2007, the BHI average cost was nearly 10% above that of the cohort.

As shown in the table in Exhibit 4, Tab 2, Schedule 6, the OM&A cost per customer for BHI is forecast to increase by more than 11% between 2007 and 2010. The increase in 2008 was 1.0%. The increase in 2009 was forecast to be 6.5%, followed by 3.3% in 2010. Based on the amended 2009 update for 2009 of \$13,463,830, the average cost per customer in 2009 would be \$212.37. This represents a moderate increase in the cost per customer of 2.1% in 2009.

Based on the average cost per customer of \$212.37 in 2009, the average compound increase from 2006 to 2009 would be 2.2%. If the average OM&A cost per customer were to increase by 3.3% in 2010 – an increase of 50% more than the 2.2% average recorded in the previous 3 years – the average OM&A cost per customer would rise to

\$219.38 and the associated total OM&A forecast for 2010 would be \$14,193,990. This figure is similar to the one provided above that is calculated by applying a 5.4% increase to the amended 2009 updated expense.

In summary, Energy Probe submits that on an envelope basis, a reduction in the 2010 OM&A expense forecast of \$600,000 is appropriate.

b) Specific Adjustments

The following is a list of adjustments that Energy Probe submits are reasonable in light of the evidence provided in this proceeding.

i) Smart Meter Bank Fees

The evidence indicates that bank fees related to the funding for the smart meter rollout are included in the 2010 OM&A expenses (Exhibit 4, Tab 2, Schedule 4, page 20 & Energy Probe Interrogatory #19 (e)). As indicated in the response to Energy Probe Interrogatory #46, BHI is proposing to reduce the revenue requirement for the amount of the smart meter associated bank fees, as these fees were included in the 2010 revenue requirement in error. BHI has forecast the associated bank fees to be \$1,000 per month or \$12,000 per year.

However, as shown in the response to Board Staff Supplementary Interrogatory #8, BHI appears to have reduced the expense in 2010 by only \$4,000. Energy Probe submits that the reduction should be \$12,000, not \$4,000.

ii) Board of Director Cost of Parent Company

BHI has included substantial costs associated with its parent company, Burlington Hydro Electric Inc., in the revenue requirement for the regulated distributor. As shown in the response to Energy Probe Interrogatory #2, these costs include \$127,500 for Board of Director fees and an additional \$32,800 associated with D&O insurance costs for the board of directors of the parent company. In total, this is a cost of \$160,300.

BHI indicates that the business of the parent company board of directors is oversight of BHI and its affiliates. As a result these costs should be recovered from the entities that the board oversees. In essence BHI states that the board of directors of the parent company oversees the LDC operation.

Energy Probe submits that these costs should be disallowed for recovery from ratepayers. BHI has its own board of directors and these costs, in the submission of Energy Probe, are legitimately recoverable through regulated rates from ratepayers. As shown in the response to Energy Probe Interrogatory #38, the BHI board of directors meets on an as needed basis to review the annual business plan of the corporation. Further, as shown in Exhibit 1, Tab 1, Schedule 15, page 2, the President and CEO of BHI reports to the BHI board of directors, not the parent company board of directors.

The Board has found in previous cost of service applications for 2008 and 2009 rates that the costs of the parent company are shareholder costs and should not be recovered from ratepayers. In particular, in the EB-2007-928 Decision and Order dated October 27, 2008 for Erie Thames Powerlines Corporation, the Board found that:

“In its responses to interrogatories from Energy Probe, Erie Thames disclosed that the corporate costs of its parent company ETPC were allocated based on revenues of the various affiliates. The projected 2008 allocation of ETPC’s costs to Erie Thames is \$104,438 and is included in Erie Thames’ applied for revenue requirement.

Energy Probe argued that it is not appropriate for ratepayers to bear the costs of the parent company’s Board of Directors in addition to the Board of Directors costs for Erie Thames. Erie Thames did not reply to this aspect of Energy Probe’s argument.

The Board agrees with Energy Probe.

The costs of the parent company are shareholder costs to the account of its shareholders and are to be paid for with parent company revenues. In appropriate circumstances, the parent company can receive dividends from the distribution company funded out of its Return on Equity. To expense these costs out of the operating revenues of Erie Thames would be contrary to regulatory principle and inappropriate.

The Board therefore disallows the ETPC's Board of Directors cost of \$104,438 from the applied for revenue requirement."

The Board made a similar determination in the EB-2008-0237 Decision and Order dated March 25, 2009 for Niagara-on-the-Lake Hydro Inc ("NOTL") related to the board of director costs of its parent company, NEI. In that Decision and Order the Board found was of the view that:

"... the costs of NEI's Board are costs to the account of its shareholders and are to be paid by NEI, notwithstanding NEI's choice to provide guidance to NOTL. To expense these costs out of the operating revenues of NOTL would be contrary to regulatory principles and is therefore inappropriate."

In summary, Energy Probe submits that the Board should disallow recovery of the \$160,300 associated with the parent company's board of directors from ratepayers.

iii) Rate Rebasing Costs

The total costs associated with this rates rebasing application have been forecast by BHI to be \$381,546, and amortized over 4 years, the cost included in 2010 is \$95,387. These figures are shown in the response to Board Staff Interrogatory #12. Energy Probe agrees that the amortization over 4 years is appropriate given the expected application of the IRM rates methodology for three years following this cost of service application.

In response to SEC Interrogatory #25, BHI has indicated that the total cost associated with the rates rebasing application that included an oral hearing is \$436,546. Assuming no oral hearing, the costs would total \$311,546. Nearly half of these costs (\$153,599) are operating expenses associated with staff resources. Procedural Order #2 in this proceeding indicated it would follow a written process and would have no oral argument. As a result Energy Probe submits that the starting point related to these costs is the figure of \$311,546. Amortized over 4 years, the cost that would be included in the revenue requirement is \$77,887, a reduction of \$17,500 from that included by BHI.

However, Energy Probe submits that the total cost of \$311,546 is significantly too high. As shown in the following table, the approved regulatory costs associated with the 2009 rebasing distributors are significantly lower than \$311,546. In fact, none of the approved regulatory costs for 2009 rebasing was in excess of \$241,197, a figure that is more than \$70,000 lower than the forecasted costs for BHI. As the table illustrates, the average approved cost is less than \$130,000.

<u>File No.</u>	<u>Distributor</u>	Approved Regulatory <u>Cost</u>
EB-2008-0222	CNPI - Eastern Ontario Power	75,000
EB-2008-0223	CNPI - Fort Erie	100,000
EB-2008-0224	CNPI - Port Colborne	241,197
EB-2008-0225	Centre Wellington Hydro Ltd.	163,000
EB-2008-0226	COLLUS Power Corp.	140,000
EB-2008-0233	Innisfil Hydro Distribution System Limited	148,000
EB-2008-0234	Lakeland Power Distribution Ltd.	104,000
EB-2008-0236	Midland Power Utility Corporation	125,000
EB-2008-0237	Niagara-on-the-Lake Hydro Inc.	100,000
EB-2008-0241	Peterborough Distribution Inc.	50,000
EB-2008-0245	Thunder Bay Hydro Electricity Distribution Inc.	99,000
EB-2008-0246	Tillsonburg Hydro Inc.	106,000
EB-2008-0247	Welland Hydro-Electric System Corp.	95,000
EB-2008-0248	WestCoast Huron Energy Inc.	140,000
EB-2008-0250	Westario Power Inc.	<u>240,000</u>
	Average	128,413
	Average excl. two highest and two lowest	120,000
	Median	106,000

Note - Does not include costs for London Hydro, PowerStream, Bluewater or ENWIN. In each of these cases these distributors had Decisions or Settlement Agreements that approved an overall level of OM&A expenses, with no Board Approved or Settlement Amount related to the COS rebasing expense.

The above table reflects 2009 rates proceedings where the majority of the proceedings followed the same process as that for BHI. In particular, there were two rounds of interrogatories and no oral component to the proceeding. In some instances, such as the CNPI group of companies, there was an oral component to the proceeding that would have added costs.

Energy Probe notes that included in the \$311,546 forecast of BHI is \$25,000 for OEB Hearing Assessments (applicant initiated). Energy Probe submits that this cost should be eliminated. Tillsonburg Hydro Inc. had a similar hearing process for its 2009 rates application, in that there were two rounds of interrogatories and no oral hearing. In the July 10, 2009 Decision for Tillsonburg Hydro Inc. in EB-2008-0246, the Board found that:

“Given what has actually transpired in the review of this application, the forecasted amount of \$25,000 for the Board costs has not been used. The Board directs that this amount be removed from the costs used to establish 2009 rates.”

Energy Probe submits the same rationale should be applicable to BHI related to their forecasted cost of \$25,000 for Board related costs related to this application and this cost will not materialize based on what has actually transpired in the review of this application.

This reduces the total amount from \$311,546 to \$286,546. Energy Probe submits that a further reduction is warranted. In the Tillsonburg Hydro Inc. Decision noted above, the Board found that the one-time consulting costs of \$175,000 associated with the rebasing application to be “*excessively high*”. The Board reduced these costs by \$100,000 to \$75,000 which was in line with consulting costs for other distributors.

In this application BHI has effective one-time consulting costs of more than \$200,000. These costs relate to the consulting costs for regulatory affairs and the operating expenses associated with staff resources shown in the response to SEC Interrogatory #25. The staff resources are related to incremental temporary staff costs to assist account and regulatory areas (Note 2 in the table in Exhibit 4, Tab 2, Schedule 5, page 1). Energy Probe submits that these one-time consulting costs are excessive and should be reduced by one-half or \$100,000. The net regulatory costs after removal of this amount would then be \$186,546. This is still more than 45% above the average of the 2009 approved rebasing regulatory costs shown in the above table.

Amortized over 4 years, the cost of \$186,546 would be \$46,637, a reduction of \$48,750 from the forecast of \$95,387 currently included in the 2010 test year revenue requirement.

iv) Tree Trimming Costs

BHI has forecast a tree trimming expense of \$448,521 for the 2010 test year (Exhibit 2, Tab 6, pgs 8-9). In response to Board Staff Interrogatory #10, BHI indicated that it was on a three year cycle and that the cost varies each year depending on where BHI was in the cycle. The 2010 expense reflects the most expensive area to trim due to the high number of trees.

In the response to Energy Probe Interrogatory #52, BHI has or will soon issue a tree trimming contract will span a 3 year period 2010, 2011 and 2012. The forecasted costs for these years, along with 2013, are provided in the response to Board Staff Supplemental Interrogatory #2. These costs are \$448,521 in 2010, \$364,300 in 2011, \$457,970 in 2012 and \$457,000 in 2013.

Energy Probe submits that the Board should “normalize” the tree trimming costs over the 2010 through 2013 period. This period covers the rebasing application year of 2010 and the following three years of IRM rate adjustments. It also reflects the three year cycle and the evidence provided by BHI that the costs can vary significantly from year to year based on which parts of the distribution area are trimmed in different years.

The average tree trimming costs over the 2010 through 2013 period as reflected in the figures provided in the response to Board Staff Supplementary Interrogatory \$2 is \$431,948. Use of this normalized figure would reduce the 2010 revenue requirement by \$16,573.

v) Bad Debt Expense

BHI has forecast a bad debt expense of \$430,000 in each of 2009 and 2010. This compares to an actual figure of \$416,516 in 2008, \$185,633 in 2007, \$106,581 in 2006 and \$146,144 in 2005. These figures are shown in the response to Board Staff Interrogatory #11. The increase in the level of bad debt expense from 2006 through 2008 reflects the slowing of the economy. In particular, the significant increase in the 2008

bad debt expense was related to four large commercial accounts (Exhibit 4, Tab 2, Schedule 4, page 12).

In response to Board Staff Interrogatory #11 at part (iii) BHI indicates that the four commercial bankruptcies reflected in the 2008 bad debt expense coincided with the beginning of the economic recession in late 2008. BHI then goes on to state that the given that the recession had just begun in late 2008, it was reasonable to expect that further deterioration of credit quality would occur through 2009 and 2010 before economic conditions improve. This is the rationale used by BHI to support an increase in the bad debt expense in 2009 and 2010 relative to 2008.

Energy Probe submits that the evidence in this proceeding does not support the level of the bad debt expense forecast for either 2009 or 2010. In particular, the response to Energy Probe Interrogatory #53 indicates that the bad debt expense for the most recent year-to-date period in 2009 is substantially below the level recorded in 2008 over the same period. Part (b) of the response indicates that if the six large accounts that were currently outstanding over 90 days are uncollectible the bad debt would total \$51,700. This is an increase from the \$11,469 of \$40,231 recorded in 2008, assuming that all of those six accounts are uncollectible. However, offsetting this increase is a reduction of more than \$83,000 in bad debt expenses recorded in account 5335 and identified in part (c) of the response to the Energy Probe Interrogatory. To be specific, the most recent year-to-date bad debt expense in 2009 is \$322,043 whereas for the same period in 2008, the amount was \$405,047.

In aggregate the total bad debt expense for 2009 is nearly \$43,000 below the 2008 level through a substantial portion of 2009, rather than the more than \$13,000 increase as forecast by BHI. This accounts for a \$56,000 difference.

Based on the evidence that the 2009 bad debt expenses are significantly lower than in 2008 (more than 10%), Energy Probe submits that the 2009 bad debt expense is

overestimated. Energy Probe submits that based on this over estimation for 2009, the 2010 test year figure is also overstated.

Based on the evidence provided in this proceeding, Energy Probe submits that the bad debt expense is lower and will be lower for 2009 than it was for 2008. Relative to the forecast provided for 2009 of \$430,000, the latest figures for 2009 indicate that this could be more than \$50,000 lower than forecast. Based on this lower figure for 2009, Energy Probe submits that the 2010 forecast is too high. Energy Probe submits that a conservative reduction of \$50,000 in 2010 is appropriate given the decline experienced in 2009 and the slow improvement in the economic outlook expected for 2010.

vi) One-Time Costs

BHI has identified one-time costs included in the OM&A expenses for 2010 that total \$34,300 (Board Staff Interrogatory #13). In response to Board Staff Supplementary Interrogatory #3, BHI indicates that these one-time costs have not been amortized. These costs have been included in full in the 2010 test year.

In response to Energy Probe Interrogatory #54, BHI indicated that these one-time costs are incurred with a frequency of three years. Based on this, Energy Probe submits that these costs should be normalized to reflect the expenditure of \$34,300 in 2010, \$0 in each of 2011 and 2012 and a further \$34,300 in 2013. This normalization mirrors both the approach to tree trimming proposed above and four year amortization for regulatory costs associated with the rebasing application.

The average cost for these one-time costs to be incurred in 2010 would be \$17,150 ($\$34,300 \times 2 / 4$). This represents a reduction in the cost to be included in the 2010 revenue requirement of \$17,150.

vii) Elimination of the Provincial Sales Tax

As noted below in Section F – Taxes, part c) HST Harmonization, Energy Probe submits that a reduction of \$36,364 related to the elimination of the provincial sales tax effective July 1, 2010 is appropriate.

viii) LEAP Funding

BHI has included \$39,000 for funding associated with the Low Income Energy Assistance Program (Exhibit 4, Tab 2, Schedule 4, page 20). These are new costs (Board Staff Interrogatory #14) and are in addition to existing costs associated, for example, with the Winter Warmth program.

BHI indicates that the \$39,000 is required to meet the requirements of guidelines of the Board. BHI has acknowledged that the Board's letter of September 28, 2009 indicated that the Board was deferring further work on LEAP as a result of a request from the Ministry of Energy. In that letter the Board noted that the Minister of Energy and Infrastructure requested that the Board not proceed to implement new support programs for low-income energy consumers in advance of a ministerial direction.

BHI, however, states that it expects to incur "equivalent costs associated with the development of the Ministry's integrated program" (Board Staff Interrogatory #14). As a result BHI has not agreed to remove these costs from the revenue requirement. Energy Probe submits that this is not appropriate. The direction given by the Minister to the Board is clear. These costs should be removed. If and when a ministerial direction is provided the Board can deal with any costs to be incurred by the distributors through deferral accounts or a generic proceeding since this issue may affect all distributors in the province. As a consequence, the \$39,000 in LEAP related costs should be removed from the revenue requirement.

ix) Regulatory Accountant

BHI is proposing the addition of a regulatory accountant position in 2010. The all-in cost associated with this position is \$67,500 (Energy Probe Interrogatory #3).

As described in the interrogatory response, the addition of this position would free up time for the staff accountant and the controller. However, according to BHI this would not result in any reduced costs associated with these positions. As indicated in the response to Energy Probe Interrogatory #39, these positions are incurring excessive hours of overtime and since this overtime is unpaid, there are no savings to be had.

Energy Probe submits that BHI has not provided sufficient evidence to justify the addition of this position in 2010. Some of the tasks to be assigned to this position include the LEAP program, FIT/microFIT programs, rate applications, and IFRS implementation. As noted elsewhere in this submission, the LEAP program will not be implemented by the Board at this time. There will be minimal time spent on rate applications in 2010 and the following years as there will not be a cost of service application for four years. The recovery of costs associated with the microFIT programs will be offset by the rates charged to microFIT customers. BHI has not included a rate or any revenues associated with these customers in its rates application. Finally, any IFRS implementation costs should be included in the deferral account the Board has approved for such expenses and not in the 2010 revenue requirement.

The position is also expected to participate in and/or monitor OEB proceedings related to generic issues that will impact all LDCs. Energy Probe submits that BHI should not be expected to be involved at any great level of detail on its own for any such OEB proceedings that may arise over the next several years. BHI is a member of the Electricity Distributors Association (“EDA”). It can reasonably be expected that the EDA will be involved in any such proceedings on behalf of its members, negating the need for BHI to be directly and substantially involved in many generic proceedings.

In summary Energy Probe submits that BHI has not provided sufficient justification for the regulatory accountant addition to staff. As a result the related expense of \$67,500 should be denied.

x) Wage Increases

The evidence indicates that BHI forecast unionized wages and benefits to increase by 3.0% for the test year (Exhibit 4, Tab 1, page 2) following a forecasted increase of 3.5% in 2009 (Energy Probe Interrogatory #17). However, as indicated in that same interrogatory response, the unionized wage increase was only 3.0% for 2009. The reduction in the 2009 costs associated with this lower than forecast increase for 2009 is \$19,165, as calculated in the response to Energy Probe Interrogatory #44. Projected forward to 2010, this results in a decrease of approximately \$19,750 based on a 3.0% increase.

The same evidence and interrogatory responses indicate that the actual increase in 2009 for non-unionized employees was the same as that forecast for 2009, at 3.9%. BHI also indicated that the non-union increase occurred before the result of the unionized increases. The forecast increase for non-unionized employees for 2010 is 3.4%.

Energy Probe submits that increases of 3.9% followed by 3.4% are excessive for the non-unionized employees when viewed in relation to the 3.0% increase for unionized employees and the overall inflation rate. Energy Probe submits that a 1.5% increase for non-union employees in 2010 is appropriate for revenue requirement purposes. The impact of this increase in wages and benefits for non-union employees is a reduction in the 2010 revenue requirement of \$42,509 (Energy Probe Interrogatory #21 (f)).

In summary, Energy Probe submits that a reduction in total compensation based on increases of approximately \$62,000 is appropriate.

xi) Incentive Pay

BHI has included incentive pay in the amount of \$204,000 in the 2010 revenue requirement (Energy Probe Interrogatory #25). The maximum incentive pay that can be achieved in 2010 is \$281,072. The amount included as an expense represents approximately 72.5% of the maximum payable.

In the response to SEC Interrogatory #31, BHI provides a breakdown of the corporate measure for the management incentive plan. A detailed description of the incentive plan, including the scorecards, is found in the material attached in response to SEC Interrogatory #17.

Energy Probe agrees with BHI in that the incentives related to safety (20%), OEB customer call responses (10%), OEB reliability to exceed 3 year average (10%) and the number of customers served per employee (10%) all directly benefit ratepayers. It is appropriate for ratepayers to bear these costs as it is the ratepayer that receives the benefits.

However, Energy Probe disagrees with BHI that the incentive costs related to the return on equity (20%), EBIT (15%) and free cash flow (15%) should be borne by ratepayers. The benefits created by these three measures are clearly benefits to the shareholder. Ratepayers do not share in the return on equity and are indifferent as to the level of earnings before income taxes or the level of free cash flow assuming, of course, that the distributor remains financially viable. Ratepayers should not be expected to pay for incentives for management to simply keep the distributor financially viable.

Energy Probe submits that ratepayers should only be required to pay for incentives that provide a direct benefit to them. Further ratepayers should not be expected to pay for incentives that provide benefits mainly for the shareholder. Based on the percentages noted above, 50% of the incentive costs are directly attributable to achieving ratepayer benefits and 50% are directly attributable to achieving shareholder benefits.

Energy Probe therefore submits that 50% of the incentive costs, or \$102,000 should be removed from the OM&A costs for revenue requirement purposes.

xii) Summary

The following table summarizes the specific submissions of Energy Probe with respect to the reductions in OM&A proposed in this submission.

Smart Meter Bank Fees	(\$12,000)
Board of Director Costs of Parent Company	(\$160,300)
Rate Rebasing Costs	(\$48,750)
Tree Trimming Costs	(\$16,473)
Bad Debt Expense	(\$50,000)
One-Time Costs	(\$17,150)
Elimination of the Provincial Sales Tax	(\$36,364)
LEAP Funding	(\$39,000)
Regulatory Accountant	(\$67,500)
Wage Increases	(\$62,000)
Incentive Pay	(\$102,000)
Total	(\$611,537)

The total shown in the above table of \$611,537 approximates the \$600,000 overall reduction in OM&A costs calculated by Energy Probe on an envelope approach based on the envelope approach applied to the amended 2009 updated forecast of OM&A costs presented earlier in this submission.

E - DEPRECIATION & AMORTIZATION

a) Depreciation Rates Used

Energy Probe submits that the depreciation rates used by BHI are consistent with the rates found in Appendix B of the 2006 Electricity Distributors Rate Handbook (Exhibit 4, Tab 7 & Tab 8) and should be accepted by the Board.

b) Half Year Rule

In its evidence BHI indicates that it has used the half year rule for calculating the test year depreciation expense (Exhibit 4, Tab 7, page 1). Energy Probe has reviewed the test year calculations provided in Exhibit 4, Tab 7, Schedule 2, page 5 and believe they reflect the appropriate use of the half year rule. As a result Energy Probe submits that the Board should accept the depreciation expense as calculated by BHI.

c) Changes to Capital Expenditures

If the Board makes any changes to the capital expenditure forecast for 2010, then Energy Probe submits that these changes should be reflected in the calculation of the depreciation expense calculated for the 2009 test year.

F - TAXES

Energy Probe submits that the distributor should calculate its income and capital taxes using the most recent information available, including tax rates that are expected to be applicable to 2010. This would include any changes that result from federal and provincial budgets that is known to the Board and other parties when the Decision is issued. Further, the appropriate tax rates should be applied. There are different federal and provincial tax rates that are applicable at different levels of taxable income.

a) Ontario Capital Tax

i) The Calculation

The calculation of the Ontario capital tax is shown in Exhibit 4, Tab 8, Schedule 2. The calculation reflects the use of the forecasted rate base for 2010 less the exemption of \$15 million with the difference multiplied by 0.075%.

Energy Probe submits that this calculation is correct and should be accepted by the Board.

ii) Update to Rate Base

Energy Probe submits that if the rate base is changed as a result of the Board's Decision, then the capital tax calculation should also be updated to reflect the revised rate base figure.

b) Income Tax

i) General Income Tax Rates

As shown in Exhibit 4, Tab 8, Schedule 2, BHI has used a federal tax rate of 18.0% and a provincial tax rate of 13.0% for 2010. The federal tax rate reflects a decline from 19.0% in 2009. The provincial rate of 13.0% reflects the current 2009 rate of 14.0% and the reduction in this rate effective July 1, 2010 to 12.0%.

Energy Probe submits that these tax rates are appropriate.

ii) Provincial Small Business Deduction and Surtax

The provincial small business deduction provides a lower provincial corporate income tax rate of 5.5% on the first \$500,000 of business income. The benefit of this reduction is gradually phased out on taxable income between \$500,000 and \$1.5 million. This is achieved through the application of 4.25% surtax on taxable income between \$500,000 and \$1.5 million. If the taxable income is in excess of \$1.5 million, there is no tax savings for a corporation.

Effective July 1, 2010, the small business tax rate is reduced from 5.5% to 4.5% on the first \$500,000 of taxable income. The effective rate for 2010 is the average of these figures, or 5.0%. Also effective July 1, 2010, the surtax of 4.25% has been eliminated. For 2010, this means that the effective surtax rate applicable to taxable income between \$500,000 and \$1.5 million is 2.125%.

Energy Probe has estimated that these changes in the small business tax rates results in a reduction in income taxes payable for a distributor with taxable income in excess of \$1.5 million to be \$18,750 in 2010. BHI has regulatory taxable income in excess of \$1.5 million for the 2010 test year as shown in Exhibit 4, Tab 8, Schedule 2.

The \$18,750 reduction in taxes is the difference between the small business reduction and the claw back associated with the surtax, as explained below.

The reduction associated with the first \$500,000 in taxable income reflects the difference between the 13.0% general provincial tax rate and the small business tax rate of 5.0%. This 8.0% differential in the tax rate, when multiplied by the \$500,000, results in a reduction of \$40,000. The surtax claws back a portion of this reduction. Application of the 2.125% surtax rate to the \$1.0 million difference between the \$500,000 and \$1.5 million of taxable income results in a claw back of \$21,250.

BHI has indicated that it does not believe that this reduction is applicable to them. In the response to Energy Probe Interrogatory #29, BHI states that this reduction would not have any impact on BHI because the associated group of companies have taxable income that is too large to be eligible for the small business deduction.

Energy Probe submits that the level of taxable capital for the group of companies is not relevant. The Board has a long standing policy that taxes for a distributor are calculated on a stand alone basis. Furthermore, there is no taxable capital limit associated with the eligibility for the provincial small business deduction. There is a taxable capital limit associated with the federal small business deduction. BHI is not eligible for the federal small business deduction.

In response to Energy Probe Interrogatory #50, BHI provides a different reason as to why they believe the provincial small business deduction is not applicable to them. This time BHI indicates that the calculation is based on taxable income for the associated group of companies, rather than taxable capital.

Again, Energy Probe submits that the Board has a long standing policy of calculating taxes to be included in the revenue requirement based on a stand alone basis. BHI also refers to the 4.25% surtax that is applied to income between \$500,000 and \$2 million and that this surtax completely eliminates the small business deduction. Energy Probe submits that these figures are incorrect. As noted earlier, the correct figures for 2010 are 2.125% applied to taxable income between \$500,000 and \$1.5 million. These rates claw back \$21,250 of the \$40,000 small business deduction, leaving a net reduction of \$18,750. Energy Probe submits that this reduction should be applied to the BHI revenue requirement.

iii) Adjustments to Utility Income

BHI has made a number of adjustments to the utility income before taxes, as shown in Exhibit 4, Tab 8, Schedule 2. Energy Probe accepts these adjustments as appropriate, with the exception noted below.

As shown in the 2010 test year column in Exhibit 4, Tab 8, Schedule 2, BHI has added an amount of \$33,325 to the account income for Federal ITCs. The response provided to Energy Probe Interrogatory #28 (a) indicates that this is the income inclusion based on federal input tax credits claimed in fiscal 2008. The response indicates that these credits were claimed in 2008 and are required to be included in income the following year. It is not clear to Energy Probe why these credits are added to accounting income in 2010, if they were to be included in income in the year following that in which they were claimed. Since the claim took place in 2008, these additions to income should be reflected in 2009 and not in 2010.

Energy Probe therefore submits that the Board should disallow the \$33,325 addition to income for calculating the regulatory taxable income.

iv) Apprenticeship Tax Credit

As can be seen in the evidence at Exhibit 4, Tab 8, Schedule 2 and specifically in the section labeled “Deductions from Accounting Income”, BHI has not made any deductions to reduce taxes for available tax credits such as the Apprenticeship Training Tax Credit (federal or provincial), the Co-operative Education Tax Credit or the Investment Tax Credit. This was confirmed in the response to Energy Probe Interrogatory #28 (b).

In parts (c) and (d) of the response to Energy Probe Interrogatory #28, BHI has provided a forecast for the apprenticeship training and co-operative education tax credits for both 2009 and 2010. In particular, based on the number of apprentices hired in 2008 and 2009 and forecast to be hired in 2010, 12 positions are eligible for the federal and provincial tax credits. The federal tax credit is a maximum of \$2,000 per position. BHI has accordingly forecast an amount of \$24,000 for 2010. The provincial tax credit is 35% of qualifying wages to a maximum of \$10,000 per position and the eligibility period is 48 months in duration. Based on these parameters, BHI has calculated the 2010 provincial apprenticeship tax credit is \$120,000. Finally a further co-operative tax credit of \$3,000 is also available to be claimed in 2010. In aggregate these tax credits total \$147,000 (\$120,000 + \$3,000 + \$24,000).

In addition to the inclusion of the tax credits as a direct reduction to the amount of tax payable, the tax credits need to be reflected as an addition to income. In other words, the net impact of the tax credits is the after tax value of the credits claimed. The response to Energy Probe Interrogatory #49 clarifies the tax treatment of the three tax credits noted above. In particular, the provincial apprenticeship training tax credit and the co-operative education tax credit are both taxed in the year in which they are claimed. The federal tax credit claimed in any year is to be included in income in the following year.

The impact of the \$147,000 in tax credits to be claimed in 2010 will result in the addition to the regulatory taxable income. The \$120,000 associated with the provincial apprenticeship tax credit and the \$3,000 in the co-operative education tax credit would both be included in the adjustment to taxable income. The federal credit of \$24,000 would not be included in the 2010 taxable income, as it is to be included in the following year. However, as noted in the response to Energy Probe Interrogatory #28 (c), the forecasted level of federal tax credits to be claimed for 2009 is \$16,000. This amount should be included as an adjustment to the 2010 taxable income. In total, Energy Probe submits that the addition to taxable income in 2010 related to the various tax credits should be \$139,000 ($\$120,000 + \$3,000 + \$16,000$).

Based on the addition of \$139,000 to the taxable income and the application of the total tax rate of 31%, this would increase taxes payable by \$43,090. Application of the tax credits in the amount of \$147,000 will result in a net reduction in taxes of \$103,910.

BHI states that the impact of the tax credits are insignificant in the total determination of the tax component of the revenue requirement (Energy Probe Interrogatory #49 (d)). Energy Probe respectfully disagrees. As show above the reduction in the income tax component of the revenue requirement is more than \$100,000. It represents a reduction of more than 6% in the forecasted regulatory income tax forecast of \$1,645,362, as shown in Exhibit 4, Tab 8, Schedule 2. This reduction is not insignificant and Energy Probe submits that the Board should direct the distributor to take the available tax credits into consideration when calculated the regulatory income tax.

v) Capital Cost Allowance

Energy Probe has reviewed the capital cost allowance schedules shown at Exhibit 4, Tab 8, Schedule 3 for 2009 and 2010 and believe they accurately reflect the capital additions for both years and the proper allocation of the capital expenditures to the CCA classes.

Energy Probe submits that any changes to the capital additions in 2009 and 2010 should be reflected as changes in the CCA additions.

vi) Update to Regulatory Taxable Income

Energy Probe submits that if the regulatory taxable income is changed as a result of the Board's Decision, then the income tax calculation should also be updated to reflect the revised level of regulatory taxable income.

c) HST Harmonization

i) The Impact

The provincial sales tax ("PST") and the goods and services tax ("GST") have been combined into a harmonized sales tax ("HST") effective July 1, 2010. The PST is included as part of the expense included in an OM&A expense and as part of the cost of capital expenditures. This is different from the GST. The GST is not included as part of the cost of an OM&A expense or as part of the cost of a capital expenditure. The GST paid by a utility is a credit that is used as an offset to the amount of GST collected. The difference between the amount collected and amount paid is remitted to the government.

The HST will operate in a similar manner to the GST. The effect of this change for businesses will be a reduction in OM&A expenses and capital expenditure costs related to the PST.

In response to Energy Probe Interrogatory #1, BHI provided an estimate of the costs related to the PST included in OM&A and capital expenditures for the 2010 test year. These figures are \$72,728 in OM&A costs and \$344,929 for capital expenditures. BHI also indicated that it had not made any adjustments to either the OM&A expense forecast or the capital expenditure forecast to reflect the elimination of the PST effective July 1, 2010.

Energy Probe submits that the forecasts provided by BHI for the 2010 test year appear to be accurate based on the historical PST costs shown for 2006 through 2009 for both OM&A costs and capital expenditure costs and taking into consideration the changes in both OM&A and capital expenditure costs forecast for 2010 relative to the previous years.

Energy Probe submits that the OM&A expense forecast for 2010 should be reduced by one-half of the forecasted PST cost of \$72,728, or \$36,364 to reflect the July 1, 2010 implementation date for the HST. Similarly, Energy Probe submits that the capital expenditures should be reduced by one-half of the \$344,929 or \$172,465.

ii) Need for a Variance Account

As indicated in the responses to Energy Probe Interrogatory # 1 and Board Staff Supplemental Interrogatory # 1, BHI is willing to accept a variance account related to the elimination of the PST. BHI did, however, express concern with the added administrative burden associated with tracking invoices to determine where PST was previously paid.

Energy Probe respectfully submits that the establishment of a variance account to track the difference between any expenses incurred for which PST would have been paid and for which the distributor is now eligible for an HST input tax credit and the expenditure reductions forecast by BHI is appropriate. It will provide necessary protection to both the distributor and its ratepayer from a government mandated change.

d) Property Tax Correction

BHI has included a property tax forecast of \$229,000 (VECC Interrogatory #25), but as shown in the response to Energy Probe Interrogatory #55, the correct figure is \$292,000. The difference of \$63,000 was the result of a transposition error.

BHI has increased the property tax forecast to the correct figure in the response to Board Staff Supplemental Interrogatory #8. Energy Probe accepts this correction as being appropriate.

G - LOSS ADJUSTMENT FACTOR

BHI has calculated its total loss factor based on the average wholesale and retail kWh for a five year historical period from 2004 through 2008 (Exhibit 8, Tab 5, page 1). The average total loss factor is 1.0405 over this period, which is a small decrease from the current approved loss factor of 1.0429.

As noted in the response to Energy Probe Interrogatory # 36, the use of a 5 year average for the calculation of the total loss factor is the preferred approach to be used in the calculation of the loss factor, as specified in the update to Chapter 2 of the Filing Requirement for Transmission and Distribution Applications, issued May 27, 2009.

Energy Probe submits that the total loss factor as estimated by BHI for 2010 is appropriate.

H - COST OF CAPITAL

The EB-2009-0084 Report of the Board on the Cost of Capital for Ontario's Regulated Utilities dated December 11, 2009 indicates that result of the Report is Board policy and that the process was not a hearing process that did not, and indeed could not, set rates. The Report goes on to state that the refreshed cost of capital policies will be considered through rate hearings for the individual utilities, at which it is possible that specific evidence may be proffered and tested before the Board. Specifically, the Report states:

"Board panels assigned to these cases will look to the report for guidance in how the cost of capital should be determined. Board panels considering individual rate applications, however, are not bound by the Board's policy, and where justified by specific circumstances, may choose not to apply the policy (or a part of the policy)." (page 13)

Energy Probe submits that based on the December, 2009 Report of the Board and the evidence on the record in this proceeding there are two adjustments that Board should make to the cost of capital for the distributor. The first of these adjustments relates to the deemed capital structure and the second relates to the allowed return on equity.

a) Deemed Capital Structure

Short-term debt was not factored into electricity distribution and transmission rate-setting prior to 2008. As part of the December 20, 2006 Report of the Board on Cost of Capital and 2nd Generation Incentive Regulation for Ontario's Electricity Distributors, the Board adopted a deemed short-term debt component of 4% of the capital structure. As part of that Board Report, the Board stated:

"As a general principle for ratemaking purposes, the Board believes that the term of the debt should be assumed to be similar to the life of the assets that are to be acquired with that debt. This suggests that, in theory, for an industry with long-lived assets, the majority of debt should be long-term. However, in reality, some short-term debt is a suitable tool to help meet fluctuations in working capital levels." (page 10)

As noted in the December, 2009 Report of the Board, capital structure was not a primary focus of the consultation. The Board determined that the split of 60% debt and 40% equity is appropriate for all electricity distributors (page 50). The Board did not explicitly state that the 60% debt component of the capital structure should remain at 56% long term debt and 4% short term debt, although Table 2 provided in the Summary section of the Board Report reflects the continuation of these figures.

Energy Probe submits that the evidence in this proceeding indicates that the 4% deemed level of short-term debt is not reasonable and that the incremental costs imposed on ratepayers by this are neither just nor reasonable.

Energy Probe agrees with the Board's comments provided in the December, 2006 Report of the Board that the term of the debt should mirror the life of the assets that the debt is used to finance. By its very nature, equity is long-term financing. This leaves the mix of long-term and short-term debt to be used to provide an appropriate balance within the capital structure to reflect the actual mix of assets being financed.

As noted by the Board in the December, 2006 Report, short-term debt is a suitable tool to help meet the fluctuations in working capital levels. As explained in Exhibit 2, tab 4, page 1 the working capital allowance has been calculated using the 15% factor. This effectively represents an average lag of 54.75 days between when a distributor pays its expenses and when they collect revenue from the customers. This reflects the short-term nature of the working capital.

As illustrated in the table on page 1 of Exhibit 2, Tab 1, Schedule 1 the working capital allowance component of rate base in 2010 is \$21,516,741. This represents 20.5% of the total rate base of \$104,740,059. The same exhibit illustrates that this percentage has been very stable. Over the 2006 through 2008 period, the actual percentage has averaged 20.7%, fluctuating within a narrow band of 20.1% to 21.2%.

At the same time, using the 4% deemed short-term debt component to finance total rate base, the deemed amount of short-term debt is only \$4,189,602 in 2010 (Exhibit 5, Tab 3, Schedule 1, page 1). The resulting shortfall in deemed short-term debt in 2010 as compared to the working capital level is \$17,327,139.

Energy Probe submits that this mismatch between the level of deemed short-term debt and the working capital level included in rate base is not appropriate. The distributor is effectively financing short term assets through long-term debt. This means that ratepayers are being asked to pay long-term interest rates on short-term assets.

The impact on the revenue requirement of this unjustified mismatch can be calculated based on the difference between the long-term and short-term interest rates as shown in Exhibit 5, Tab 3, Schedule 1. In particular, the following table utilizes the long-term debt rate of 7.62% and the short-term debt rate of 1.33%.

	<u>2010</u>
Long-term Debt Rate	7.62%
Short-term Debt Rate	<u>1.33%</u>
Difference	6.29%
Deemed Shortfall	\$17,327,139
Interest Cost Impact	\$1,089,877

Energy Probe is aware that the differential between the long-term and short-term interest rates is likely to be substantially less than that shown in the above table, based on the methodologies to be used as described in the Board's December, 2009 Report. The difference in the rates is likely to be around 3.0%. Even at this lower differential, the interest cost impact is nearly \$520,000. This amount represents a significant proportion of the total revenue requirement of just over \$32 million (Board Staff Supplemental Interrogatory #8).

As noted above, the distributor is effectively financing a significant portion of short-term assets with long-term financing at a higher rate. It has a significantly different level of short term working capital levels in relation to rate base than a deemed short-term debt component of 4% would imply.

Energy Probe submits that it is neither just nor reasonable for the Board to expect ratepayers to pay long-term interest costs to finance short-term assets. This is no more appropriate that if the distributor applied a high depreciation rate associated with computer software to a long lived asset such as poles that should have a low depreciation rate. In both cases the resulting revenue requirement is artificially inflated.

As noted earlier, the Board, in its December, 2009 Report indicated that panels assigned to individual utility rate cases are not bound by the Board's policy where justified by specific circumstances. Energy Probe submits that the evidence is clear. A 4% deemed short-term debt component is not appropriate when the distributor has a short-term asset component of rate base of more than 20%.

It should be noted that the distributor has actual long-term debt of less than \$48 million (Exhibit 5, Tab 2, Schedule 1, page 1). The difference between the deemed long-term debt and the level of actual long-term debt is \$10,775,825. If this amount was simply classified as short-term debt, the short-term debt component of rate base would increase to about 14.3%, much closer to the appropriate level. Based on a 3.0% differential in rates, this would reduce the revenue requirement by about \$320,000.

It should also be noted that moving the difference between the deemed long-term debt and the actual level of long-term debt to short-term debt has no negative impact on the distributor since it does not have an actual cost associated with the unfunded long-term debt.

Finally, Energy Probe notes the Board's comments at page 52 of its December, 2009 Report:

"The Board wishes to emphasize that the long-term debt guidelines relating to electricity distribution utilities are expected to evolve over time and are expected to converge with the process used by the Board to determine the amount and cost of long-term debt for natural gas distributors."

Energy Probe submits it is time for the evolution to begin.

b) Allowed Return on Equity

The Board has determined a methodology to determine the return on equity as part of the December, 2009 Board Report. Based on this methodology and based on the September, 2009 information the return on equity would be 9.75%. This figure will be updated by the Board based on January, 2010 information.

The Board determined the 9.75% figure based on a long term Government of Canada bond yield of 4.25% and an initial equity risk premium of 550 basis points. This equity risk premium includes an implicit 50 basis point for transactional costs (page 37 of the December, 2009 Report). This is the same amount included in the equity risk premium as determined in the Boards December, 2006 Report. In that Report the Board noted that it would continue to include an implicit premium of 50 basis points for floatation and transaction costs. The Board further noted that this inclusion had been the case ever since the Board first introduced the premium in the early 1990s.

Flotation costs of capital are applicable in cases where a particular distributor releases some new stocks in the market or if it issues debt. These costs generally consist of charges for underwriters, commissions to be paid to brokers, legal fees and cost of administration.

As shown in Exhibit 5, Tab 3, Schedule 1, page 1, the common equity forecast for 2010 is \$41,896,023. Based on this figure, the 50 basis point allowance for the floatation and transactional costs represent a significant amount of the revenue requirement. This cost amounts to \$209,480 and when grossed up for taxes is more than \$300,000.

Energy Probe submits that inclusion of the implicit 50 basis points for transactional costs is not appropriate for this distributor. There is no evidence to support that the distributor expects to incur any floatation or transaction costs in the test year. There simply is no evidence to suggest that this distributor will incur any of these costs.

As noted above, the inclusion of some provision for floatation or transactional costs in the equity risk premium component of the return on equity has been long standing at the Board, and indeed, at other regulators across North America. Energy Probe submits that distributors that have such costs should be able to recover them. Energy Probe makes no comments as to whether an allowance of 50 basis points is appropriate, is too high, or is too low. In any case, that is irrelevant in the current situation.

The evidence in this proceeding is that the cost for this distributor is \$0.

As noted earlier in the submissions on the capital structure, the Board panel assigned to individual utility rate cases are not bound by the Board's policy where justified by specific circumstances. Energy Probe submits that the evidence is clear. The specific circumstance in this case is that there are no floatation or transaction costs associated with equity that needs to be recovered from ratepayers.

The Board should not, indeed cannot, allow a distributor to recover costs that the Board knows do not exist. To do so would not result in just and reasonable rates.

The Board would not allow a distributor to include a capital expenditure that it knew would not take place in the test year to be added to rate base. The Board would not allow a depreciation expense to be included in the revenue requirement if that depreciation expense was calculated on an asset that did not exist. The Board would not allow an OM&A expense to be included in the revenue requirement if the evidence indicated that the money would not be spent or the addition to staff was not going to take place. The Board would not allow a cost of debt of 6% if the evidence indicates that the forecasted cost of debt for the test year is 5.75%. Why would the Board allow recovery of any cost that the evidence clearly indicates does not exist?

Energy Probe submits that it would be grossly unfair to ratepayers to expect them to pay for equity-related costs that do not exist.

Energy Probe also submits that this would be unfair to other distributors that do have floatation and transaction costs. In the case of such a distributor, it would earn 9.75% on its deemed equity and some portion of that would be related to costs that were actually incurred. If the 50 basis point allowance is appropriate and accurate, then the shareholder effectively earns an after cost return on equity of 9.25%. The shareholder of the distributor that has no such costs, however, is allowed to earn an after cost return on

equity of 9.75%. Energy Probe submits that the Board should not discriminate on this basis. Shareholders of all distributors should be allowed the opportunity to earn the same after cost return on equity.

c) Short Term Debt Rate

Energy Probe submits that the short term debt rate should be updated to reflect the Board's methodology as outlined in Appendix D of the EB-2009-0084 Report of the Board on the Cost of Capital for Ontario's Regulated Utilities.

d) Long Term Debt Rate

BHI has a promissory note with its shareholder, the City of Burlington in an amount of just under \$48 million. BHI has no other long term debt as of the time of filing.

BHI indicates that since the promissory note is with an affiliate and is callable, it is requesting a return on this long term debt in the test year of 7.62%, subject to the update of this rate to reflect January, 2010 market information.

As can be seen in the promissory note, which is included in the evidence at Exhibit 5, tab 2, Schedule 1, the interest rate is variable. The rate is adjusted periodically to reflect the deemed rate as set from time to time by the Ontario Energy Board.

Energy Probe submits that all of the long term debt held by BHI is from an affiliate, is callable within the test year and has a variable rate. As such, the deemed long term debt rate as calculated based on the methodology outlined in Appendix C of the EB-2009-0084 Report of the Board on the Cost of Capital for Ontario's Regulated Utilities should apply to this debt.

I - DEFERRAL AND VARIANCE ACCOUNTS

a) Accounts and Amounts to be Cleared

Energy Probe submits that the accounts and the amounts proposed to be cleared by BHI, as updated in the response to Board Staff Interrogatory #26 to \$(3,598,389) are appropriate.

b) Allocation to Customer Classes

In the response to Board Staff Supplemental Interrogatory #7, BHI provided the allocation of the amounts to be recovered/rebated to customers and the calculation of the associated rate riders, including that associated with the Global Adjustment sub-account. Energy Probe accepts the allocation and calculation of the rate riders. Energy Probe further submits that the Board should adopt the separate rate rider for recovery of the Global Adjustment sub-account

c) Recovery Period

BHI proposes to dispose of the balances in the deferral and variance accounts over a four year period (Exhibit 9, Tab 2, Schedule 1, page 2). Energy Probe accepts this proposal given the overall impact on bills.

J - COST ALLOCATION & RATE DESIGN

Energy Probe submits that the revenue to cost ratios shown in Exhibit 7, Tab 3, Schedule 1 in the third column in the table which reflects the revisions required for the transformer ownership allowance and updates the model to reflect 2010 data are all within the Board approved ranges with the exception of the street lighting class. BHI proposes to increase the ratio for the street lighting class from 15.07% to 42.54% in 2010, which is 50% of the way to the bottom of the Board approved range for this class. Energy Probe supports this proposal.

Energy Probe further submits that the Board should direct BHI to move the street lighting revenue to cost ratio to the bottom of the Board approved range of 70% over the following two years.

BHI proposes to move the ratio for the GS > 50 kW rate class from 80.3% to 85%. Energy Probe notes that this class is already within the Board approved range. As a result, Energy Probe does not support the increase proposed by BHI for this rate class.

K - LRAM & SSM

Energy Probe has had the opportunity to review the submissions of VECC related to the LRAM and SSM issues. Energy Probe supports the submissions of VECC.

L - SMART METER FUNDING ADDER

Energy Probe notes that BHI is proposing to continue to use the current approved smart meter adder of \$1.00 per meter per month for 2010 rates (Exhibit 9, Tab 3, page 1).

Energy Probe does not oppose this proposal, subject to the comments below.

As shown in the material provided to the Board of Directors on October 20, 2009 (provided in the response to SEC Interrogatory #3), BHI has arranged funding from Infrastructure Ontario for its smart meter program. In response to SEC Interrogatory # 28 (e), the term for this loan is 15 years and the principle amount is \$15 million. Also as indicated in the response, the rate associated with a 15 year amortizer loan was 4.55% as of December 11, 2009. This Infrastructure Ontario was expected to be finalized by the end of 2009 (SEC Interrogatory # 29).

Energy Probe submits that when the costs included in the smart meter deferral and variance accounts are trued up, the cost associated with this \$15 million loan for smart meters should be reflected in the costs incurred by the distributor.

M - COSTS

Energy Probe requests that it be awarded 100% of its reasonably incurred costs.

Recognizing the size of Burlington Hydro, Energy Probe has attempted to minimize its time on this application, while at the same time ensuring a thorough review.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

January 18, 2010

Randy Aiken

Consultant to Energy Probe