# Burlington Hydro Inc.

**REPLY SUBMISSION**

**2010 ELECTRICITY DISTRIBUTION RATES**

**EB-2009-0259**

**Filed: February 2, 2010**

**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. to the Ontario Energy Board for an Order approving Just and Reasonable Rates and other charges for electricity distribution to be effective May 1, 2010.

# REPLY SUBMISSION OF BURLINGTON HYDRO INC.

## A. INTRODUCTION

1. Burlington Hydro Inc. ("Burlington") is pleased to file this reply submission in relation to its 2010 forward test-year cost of service rebasing application (the "Application") filed August 28, 2009 and requesting approval of its proposed distribution rates and other charges effective May 1, 2010. Burlington is a licensed electricity distributor serving approximately 78,000 customers in the City of Burlington.

2. This submission is made pursuant to Procedural Order No. 2 in reply to submissions filed by Board Staff on January 11, 2010, the Vulnerable Energy Consumers' Coalition ("VECC") and Energy Probe Research Foundation ("Energy Probe") on January 18, 2010, and the School Energy Coalition ("SEC") on January 19, 2010.

3. This submission summarizes each section of the evidence and provides comments on items addressed in the submissions of Board Staff and the intervenors. Notwithstanding specific submissions addressed below, Burlington maintains its position that the material filed to date represents the best information available at the time the documents were created, and that the positions taken in the evidence and interrogatory responses are most appropriate for the purpose of establishing distribution rates for the 2010 test year. Burlington's intent is not to repeat the significant amount of evidence that is already before the Board.

## B. THE APPLICATION AND PROCESS

4. Burlington filed the Application on August 28, 2009. The Board issued Procedural Order No. 1 on October 19, 2009 to initiate the review of the application. In accordance with this Procedural Order, Board Staff issued interrogatories to Burlington on October 30, 2009 and the intervenors issued interrogatories to Burlington on November 3, 2009. Burlington filed responses to these interrogatories on November 20, 2009.

5. On December 4, 2009 the Board issued Procedural Order No. 2, which allowed for a supplemental round of interrogatories. Board Staff, VECC and Energy Probe issued interrogatories to Burlington on December 11, 2009, and SEC issued interrogatories on December 13, 2009. Burlington filed responses to all supplemental interrogatories on December 21, 2009.

6. Procedural Order No. 2 also addressed Burlington's request for confidential treatment of certain documents filed in response to interrogatories on November 20, 2009. Parties were invited to make submissions on this request by December 11, 2009. SEC provided a submission on this matter. In accordance with the Procedural Order, Burlington provided a submission to the Board on December 18, 2009.

7. Procedural Order No. 2 also identified that the Board had determined to proceed by way of a written hearing. Written submissions were filed by Board Staff on January 11, 2010. VECC and Energy Probe filed submissions on January 18, 2010 while SEC requested a one-day extension and filed a submission January 19, 2010. The Procedural Order noted that Burlington is to file a reply submission with the Board by February 1, 2010. This was later extended to February 2, 2010 in conjunction with SEC's filing extension.

8. Burlington requested a revenue requirement of $31,317,814 in its original Application, but in response to the interrogatory process, Burlington provided a breakdown of its revenue requirement confirming changes proposed between the time it filed the original application and the closing of the interrogatory stage of this hearing. Burlington's updated revenue requirement is $32,410,162. The proposed rates are set to recover a revenue deficiency of $4,172,323, effective May 1, 2010. A table providing a summary of the revenue deficiency calculation was provided in response to Board Staff Supplemental IR#8 and is excerpted below.

**Revised Calculation of Revenue Deficiency or Surplus**

| Calculation of Revenue Deficiency or Surplus | 2010 Test Existing Rates | 2010 Test Proposed Rates |
|---|---|---|
| **Revenue** | | |
| Suff/ Def From Below. | | $4,172,323 |
| Distribution Revenue | $26,479,520 | $26,479,520 |
| Other Operating Revenue (Net) | $1,758,319 | $1,758,319 |
| Total Revenue | $28,237,839 | $32,410,162 |
| | | |
| **Distribution Costs** | | |
| Operation, Maintenance, and Administration | $14,796,994 | $14,796,994 |
| Depreciation & Amortization | $6,687,092 | $6,687,092 |
| Property & Capital Taxes | $359,305 | $359,305 |
| Interest- Deemed Interest | $4,518,188 | $4,518,188 |
| Total Costs and Expenses | $26,361,580 | $26,361,580 |
| | | |
| Utility Income Before Income Taxes | $1,876,259 | $6,048,582 |
| | | |
| Net Adjustments per 2009 Pils | $306,385 | $306,385 |
| Taxable Income | $2,182,644 | $6,354,967 |
| | | |
| Tax Rate | 31.0% | 31.0% |
| | | |
| **Income Tax** | $676,620 | $1,970,040 |
| | | |
| **Utility Income** | $1,199,639 | $4,078,542 |
| | | |
| **Rate Base** | $104,578,009 | $104,578,009 |
| | | |
| **Equity** | 40.00% | 40.00% |
| **Equity Component Rate Base** | $41,831,203 | $41,831,203 |
| | | |
| Income / Equity Rate Base % | 2.87% | 9.75% |
| **Target Return -Equity on Rate Base** | 9.75% | 9.75% |
| | | |
| Return- Equity on Rate Base | $4,078,542 | $4,078,542 |
| Revenue Deficiency | $2,878,903 | |
| Revenue Deficiency (Gross-up) | $4,172,323 | |

9. Burlington updated the OEB revenue requirement workform in response to Board Staff Supplemental IR #8 and summarized the rate impacts to typical customers based on its updated revenue requirement. Those rate impacts are as follows:

**Selected Delivery Charge and Bill Impacts Per Draft Rate Order**

| | | Monthly Delivery Charge | | | | Total Bill | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | Current | Per Draft Rate Order | Change $ | Change % | Current | Per Draft Rate Order | Change $ | Change % |
| **Residential** | **800** kWh/month | $ 25.27 | $ 28.17 | $ 2.90 | 11.5% | $ 99.62 | $ 102.57 | $ 2.95 | 3.0% |
| **GS < 50kW** | **2000** kWh/month | $ 51.38 | $ 56.91 | $ 5.53 | 10.8% | $ 241.56 | $ 247.13 | $ 5.57 | 2.3% |

10. In this proceeding, Burlington Hydro is requesting the following approvals as just and reasonable rates and charges pursuant to Section 78 of the *Ontario Energy Board Act, 1998* (the "OEB Act"):

(a) Approval of the proposed distribution rates and other charges effective May 1, 2010, or as soon as possible thereafter, to recover a revenue requirement of $32,410,162;[1]

(b) Approval of the Applicant's proposed change in capital structure, decreasing the Applicant's deemed common equity component from 43.3% to 40.0% and increasing the deemed debt component from 56.7% to 60%, consistent with Report of the Board on Cost of Capital and 2nd Generation Incentive Regulation for Ontario's Electricity Distributors dated December 20, 2006 (the "December 2006 Report") and the Report of the Board on the Cost of Capital for Ontario's Regulated Utilities dated December 11, 2009 (the "December 2009 Report");[2]

(c) Approval of the proposed loss factor;[3]

(d) Approval of the Applicant's proposed change to the Retail Transmission-Network Service and Retail Transmission-Connection charges based on the OEB's Guideline G-2008-0001 – Electricity distribution Retail Transmission Service Rates, issued July 22, 2009;[4]

(e) Approval to continue the Smart Meter Adder, Wholesale Market and Rural Rate Protection Charges, Specific Service Charges and Transformer Allowance approved in the OEB Decision and Order in the matter of Burlington Hydro's 2009 Distribution Rates (EB-2008-0163);

(f) Approval to collect the Lost Revenue Adjustment Mechanism and Shared Service Mechanism amounts over a four-year period using the method of recovery described in Exhibit 8, Tab 6; and

[1] See Exhibit 1, Tab 2, Schedule 5, Exhibit 6, Tab 1 and response to Board Staff Supplemental IR#8.
[2] See Exhibit 5, Tab 1.
[3] See Exhibit 8, Tab 5, Schedule 1.
[4] See Exhibit 8, Tab 3.

(g) Approval to dispose of the various Deferral and Variance Account Balances as at December 31, 2008 (including interest to April 30, 2010) over a four-year period using the method of recovery described in Exhibit 9, Tab 2.

## C. RATE BASE

### Overview

11. Burlington requested approval of $104,740,059 for its 2010 rate base in the original Application. In response to an interrogatory, Burlington has acknowledged a reduction in the test year rate base to $104,578,009 from $104,740,059, reflecting the delay in the Cumberland TS wholesale metering spending from 2009 to 2010.[5] Burlington's rate base reflects the definition used in the 2006 EDR Handbook as an average of the balances at the beginning and the end of the 2010 Test Year plus a working capital allowance which is 15% of the sum of the cost of power and controllable expenses. Burlington has not included any smart meter spending in rate base.

12. The following table summarizes Burlington's requested rate base (excerpted from Exhibit 2, Tab 1, Schedule 1 of the Application, as updated to reflect changes in response to interrogatories).

| Description | 2006 Board Approved | 2006 Actual | 2007 Actual | 2008 Actual | 2009 Bridge Year | 2010 Test Year |
|---|---|---|---|---|---|---|
| Gross Fixed Assets | 160,313,471 | 174,649,666 | 181,777,529 | 191,554,784 | 199,651,284 | 208,837,384 |
| Accumulated Depreciation | (83,114,114) | (97,933,293) | (104,290,507) | (110,492,858) | (117,496,344) | (124,867,690) |
| Net Book Value | 77,199,357 | 76,716,373 | 77,487,022 | 81,061,926 | 82,154,940 | 83,969,694 |
| | | | | | | |
| Average Net Book Value | 77,199,357 | 77,255,073 | 77,101,698 | 79,274,474 | 81,608,433 | 83,062,317 |
| | | | | | | |
| Working Capital | 128,066,606 | 135,411,896 | 138,476,666 | 133,114,052 | 143,630,890 | 143,437,942 |
| Working Capital Allowance | 19,209,991 | 20,311,784 | 20,771,500 | 19,967,108 | 21,544,634 | 21,515,691 |
| | | | | | | |
| Rate Base | 96,409,348 | 97,566,857 | 97,873,198 | 99,241,582 | 103,153,067 | 104,578,009 |

13. Burlington's proposed rate base amount is a 5.4% increase ($5.3M) from Burlington's 2008 actuals and an 8.5% increase ($8.2M) from its 2006 Board Approved Rate Base. Board staff and intervenors made submissions on the following items: (i) Capital Additions; (ii) Shareholder capital contributions; (iii) Working Capital Allowance; and (iv) Elimination of PST. Burlington's submissions in respect of each of these specific items are discussed in more detail below.

[5] See response to VECC Supplemental IR#40 and Board Staff Supplemental IR#8.

**Capital Additions**

14. The following table summarizes capital additions to Burlington's fixed assets from 2006 to the 2010 test year.[6] Specifically, Burlington notes that its 2010 capital budget is $9,186.100 as detailed in the evidence and not $9,680,000 as assumed in the SEC in its submissions. Burlington submits the proposed increase of 4.6% from 2009 is reasonable, particularly in light of several unexpected project deferrals. Burlington notes that there is no work in progress for the years 2006 to 2009 as all capital projects are budgeted for completed and in service in each calendar year.[7]

| Actual 2006-2008 Expenditures, Budget 2009, Forecast 2010 | | | | | | |
|---|---|---|---|---|---|---|
| **Project Name** | **2006** | **2007** | **2008** | **2009** | **2010** | **OEB Accounts** |
| Buildings | 60,728 | 250,208 | 570,198 | 455,000 | 430,000 | 1808; 1908 |
| Substation Equipment | 144,824 | 718,499 | 346,640 | 277,500 | 357,500 | 1820 |
| Underground Distribution | 1,455,802 | 2,353,812 | 2,904,573 | 5,687,300 | 3,540,300 | 1830; 1835; 1855 |
| Overhead Distribution | 3,168,781 | 3,355,585 | 4,776,381 | 3,947,700 | 3,666,700 | 1840; 1845; 1855 |
| Transformers | 2,019,119 | 1,704,860 | 2,217,733 | 2,100,000 | 1,800,000 | 1850 |
| Meters | 601,380 | 372,826 | 45,418 | 369,500 | 1,285,000 | 1860 |
| Tools - Overhead | 3,653 | | 3,012 | 15,000 | 15,000 | 1940 |
| Tools - Underground | 8,714 | 6,588 | 3,672 | 12,000 | 10,500 | 1940 |
| Tools - Station Maintenance | 15,888 | 74,447 | 13,141 | 25,000 | 25,000 | 1940 |
| Tools - Meter | | | 16,740 | 14,600 | 13,000 | 1945 |
| System Supervisory Equipment | | | 106,150 | 125,000 | 160,000 | 1980 |
| Roling Stock | 160,397 | 273,640 | 102,055 | 455,000 | 185,000 | 1930 |
| Office Equipment | 68,126 | 21,758 | 7,663 | 77,900 | 128,100 | 1915 |
| Computer Hardware & Software | 207,783 | 240,067 | 308,859 | 735,000 | 270,000 | 1920; 1925 |
| Contributions and Grands | (3,034,454) | (2,244,428) | (1,644,982) | (6,200,000) | (2,700,000) | 1995 |
| | | | | | | |
| **TOTAL** | **4,880,740** | **7,127,864** | **9,777,253** | **8,096,500** | **9,186,100** | |

15. Board Staff noted that the increase in Burlington's rate base is due to various capital additions that Burlington has well documented in Exhibit 2, Tab 5 of the Application and in its asset management plan. When preparing its capital budget, Burlington Hydro staff complete a thorough review process, including reliance on the Asset Management plan and its associated documents. The asset management process forms the framework for development of the 10 year capital plan. Planning consideration includes capital work required for external government agencies (City, Region, MTO, etc). As a result of this detailed review process, coupled with requirements from external government agencies, all projects identified in the 2010 capital program are considered high priority.[8]

[6] See response to SEC IR#10, updated to reflect the response to Board Staff Supplemental IR#8.
[7] See response to VECC IR#5.
[8] See Exhibit 2 of the Application.

16. Board Staff indicated that they have no concerns with Burlington's proposed capital expenditures and the associated capital additions to rate base.

17. Several intervenors refer in argument to a report dated October 20, 2009 to the Burlington Board of Directors which, in part, provides that: "*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 that budgeted.*"[9] In the report, Burlington's CFO had proposed a strategy to attempt to reduce Burlington's net capital additions in 2009 by roughly 10% in order to manage its free cash flow which was being impacted by lower than forecast sales revenue. Burlington notes that ultimately this 10% reduction was not realized by Burlington and the capital expenditures for 2009 were completed on budget. It is also worth noting that the "budget" referenced in the report refers to a pro-forma budget presented to Burlington's Board of Directors to assist in decision making, which budget does not correspond directly to the capital budget in the Application. This has caused some confusion among the intervenors. Burlington submits that the report has been taken out of context by intervenors when trying to implicate that changes are necessary to the Application. Burlington provided specific details of the four projects which together accounted for the $900k in proposed deferred capital spending mentioned in the report.[10] Notably, the Application already accounted for the deferral of the North Brant Hills cable rebuild project (only $25,000 in engineering charges was included in the Application for 2009, which work was not completed in 2009 and thus the charges were deferred to 2010, while $550,000 was included in the Application for 2010).[11] In addition, Burlington has acknowledged the deferral of the Cumberland TS wholesale metering project at paragraph 11 above. Finally, Burlington acknowledged the deferral of the 2.5 to 3 element meter upgrade project and the fault indicators project in its response to Energy Probe IR#7, noting however that other unanticipated capital cost increases have more than offset any savings from deferring these projects.

18. Energy Probe has made four principal submissions in respect of Burlington's capital additions. VECC and SEC have mirrored these submissions in some aspects. First, Energy Probe suggests that $350,000 associated with the IT replacement at the Cumberland TS should be removed

[9] See response to SEC IR#3.
[10] See response to SEC IR#28(d).
[11] See Exhibit 2, Tab 4, Schedule 7, Page 10; Exhibit 2, Tab 4, Schedule 8, Page 3; and the response to Energy Probe IR#7.

from Burlington's 2009 bridge year budget and included in the 2010 test year budget (pg. 3). Burlington has adjusted its capital expenditures to reflect the delay in the wholesale metering project at the Cumberland TS (see paragraph 11).

19. Second, Energy Probe suggests that the Board should direct Burlington remove an additional $494,000 from its 2009 bridge year budget and include it in the 2010 budget (pg. 4-5). VECC makes a similar submission at paragraph 2.3. Burlington submits that this reduction is arbitrary, entirely inappropriate and should be rejected by the Board. The evidence before the Board is that although a number of projects were deferred during 2009, some deferred projects (such as the downtown Lakeshore feeder extension) have no rate base impact because the costs are offset by capital contributions,[12] while a number of other capital projects have grown in scope and as a result the total of capital projects anticipated for completion in 2009 agrees with the 2009 bridge year forecast in the Application.[13] With the benefit of hindsight, Burlington can now report to the Board that preliminary 2009 year end results indicate that capital spending has tracked to the budget included in its 2009 bridge year forecast.

20. Third, Energy Probe has suggested that Burlington has provided responses to various interrogatories that appear to be inconsistent and has asked that Burlington clarify this apparent inconsistency in its reply (pg. 6-7).[14] Burlington submits that the response to Energy Probe IR#7 is an accurate representation of the projects being deferred from 2009. The response to SEC IR#28 was specific to the $900k mentioned in the October 20, 2009 report, which as noted in paragraph 17 above does not correspond directly to the capital budget in the Application. Specifically the response to SEC IR#28 does not include several projects that were deferred and mentioned in response to Energy Probe IR#7 because those projects were not part of the $900k figure quoted in the October 20, 2009 report.

21. Fourth, Energy Probe submits that the Board should direct Burlington to defer roughly 10% of its forecasted 2010 capital expenditures, approximately $880,000, to future years (pg. 8). Similarly, SEC submits that the Board should reduce Burlington's allowed 2010 capital budget to $8,169,540, reflecting SEC's calculation of an average of Burlington's 2007-2009 capital spending (para. 3.2.4). Burlington submits that both of these reductions are arbitrary, entirely

[12] See Exhibit 2, Tab 4, Schedule 7, Pages 4 and 19.
[13] See response to Energy Probe IR#7.
[14] Specifically, Energy Probe makes reference to the Application at Exhibit 6, Tab 4, Schedule 1, the response to Energy Probe IR#7, and the response to SEC IR#28.

inappropriate and should be rejected by the Board. Burlington notes Board Staff's observation that "the increase in Burlington's rate base is due to various capital additions that Burlington has well documented in Exhibit 2/ Tab 5 and in its asset management plan" and VECC's observation that "Burlington's approach to capital planning is appropriately documented and supported."

**Shareholder Capital Contributions**

22. Burlington has operated under long established cost sharing agreements with the City of Burlington which were established prior to deregulation but subsequent to incorporation of Burlington. In response to VECC IR#8, Burlington acknowledged that, in accordance with its Shareholder Direction,[15] Burlington does not require 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. Burlington does, however, require the City to pay for temporary line modifications and relocations.

23. Energy Probe suggests that it is not appropriate for ratepayers to bear the costs of relocations requested by the shareholder, noting that the Board should direct Burlington to provide an estimate of the dollar amount of these activities (pg. 8-9). Similarly, both VECC (at para. 2.5) and SEC (at 3.2.6-3.2.9) suggest that it is not appropriate for Burlington to pay 100% of the costs of such projects, instead submitting that the Board should deem capital contributions on such projects at 50% of the costs and should reduce the rate base accordingly (para. 2.5). Both SEC and VECC suggest that the Board should use 50% of the $740,000 in City driven projects, or $370,000, as a proxy for the expected capital contribution amount which should be removed from the 2010 capital budget.

24. Burlington submits that it will follow the Board's direction if it is required to create a new policy on the collection of capital contributions from the City of Burlington on City driven projects. Burlington expects that any such policy will apply on a go-forward basis only and the Board will avoid engaging in an exercise of retroactive rate making. However, Burlington submits that the estimate suggested by SEC and VECC (50% of the $740,000 in City driven projects) is deeply flawed and should be rejected for rate setting purposes. Burlington's practice is to charge a capital contribution based on 50% of the labour and vehicle charges - material

[15] See response to SEC IR#33.

charges are included directly into the capital rate base (which is consistent with Burlington's existing practice with the MTO). As a result, Burlington notes that the contribution which could be expected of the City from a capital budget amount of $740,000 would be approximately $220,000 based on 50% of the labour and vehicle charges only.

**Working Capital Allowance**

25. Burlington's working capital allowance is forecast to be $21,516,741 for 2010 and is based on the "15% of specific OM&A accounts formula approach" referred to at page 15 of the Board's Filing Requirements. Chapter 2 of the Board's Filing Requirements for Transmission and Distribution Applications, issued May 27, 2009, indicates that applicants may take one of two approaches in calculating the allowance for working capital: (i) either the 15% allowance approach or (ii) filing of a lead lag study. The Filing Requirements makes no distinction as to any threshold that may influence the choice, nor does it indicate as to when a lead lag study would be appropriate. Burlington did not complete a lead/lag study as part of the Application because of the significant costs associated with completing such a study and because the Board did not require 2009 applicants of similar size to Burlington to complete a similar study as part of their applications.[16] The table below provides a summary of Burlington's working capital calculation.[17]

**Summary of Working Capital Calculation**

| Description | 2006 BA | 2006 Actuals | 2007 Actual | 2008 Actual | 2009 Bridge Year | 2010 Test Year |
|---|---|---|---|---|---|---|
| Cost of Power | 116,840,330 | 123,230,754 | 125,505,112 | 119,783,988 | 129,314,322 | 128,414,948 |
| Operations | 2,846,088 | 3,501,950 | 3,607,258 | 4,383,027 | 4,157,707 | 4,513,354 |
| Maintenance | 2,154,744 | 2,652,339 | 2,664,758 | 2,411,913 | 2,613,009 | 2,894,945 |
| Billing and Collecting | 1,972,864 | 1,997,392 | 2,091,157 | 2,298,488 | 2,317,744 | 2,348,908 |
| Community Relations | 411,491 | 436,651 | 538,029 | 41,317 | 47,101 | 80,687 |
| Administration and General Expenses | 3,841,088 | 3,501,772 | 3,791,023 | 3,910,354 | 4,901,006 | 4,963,100 |
| Other Distribution Expenses | - | 91,038 | 279,329 | 284,965 | 280,000 | 229,000 |
| Working Capital | 128,066,606 | 135,411,896 | 138,476,666 | 133,114,052 | 143,630,890 | 143,444,942 |
| Working Capital Allowance | 19,209,991 | 20,311,784 | 20,771,500 | 19,967,108 | 21,544,634 | 21,516,741 |

26. Board Staff accepts Burlington's use of 15% as appropriate at this time and takes no issue with Burlington's methodology for calculating its working capital allowance (pg. 17-18). Burlington acknowledges that it will update its working capital calculation to reflect any changes in controllable expenses and cost of power arising from the Board's decision as well as updates to the RPP commodity price and the current retail transmission prices. Burlington will include

[16] See response to VECC IR#6(d).
[17] This table is based on Exhibit 2, Tab 1, Schedule 1, Page 2 and Exhibit 2, Tab 4, Schedule 1, Page 1.

sufficient detail and discussion in its draft Rate Order to aid other parties in understanding the numbers provided and their derivation.

27. Energy Probe notes that the use of separate prices for RPP and non-RPP volumes provides a more accurate estimate of the commodity cost of power and the resulting working capital allowance (pg. 9-10). Similarly, VECC suggests that Burlington should revise its working capital allowance to reflect its updated cost of power calculation to reflect the RPP and non-RPP volumes (para. 2.7). In response to Energy Probe IR#5(d), Burlington provided an update to its cost of power calculation based on this RPP versus non-RPP split. Burlington submits that it will follow the Board's direction in respect of the proper forecasting methodology, however Burlington notes that estimates of RPP versus non-RPP customers vary considerably as various customers move in and out of contracts with retailers.

28. Finally, Burlington submits that no further adjustments to the number of non-RPP customers should be made.[18] Energy Probe misinterprets the evidence when it suggests that 1.3% of total sales is a proxy for this change (pg. 10). Specifically, the 1.3% impact to total sales reflects the change in MUSH customers in Burlington which had previously moved from RPP pricing and as a result this impact was already reflected in the Application.[19] Burlington submits that on the evidence, no further change in the number of non-RPP customers is required.

29. Board Staff suggest that new evidence should be required at Burlington's next rebasing application to support the requested working capital allowance (pg. 18). Energy Probe agrees, suggesting that the Board should direct Burlington to undertake a lead/lag study, or at a minimum a lead/lag study on the cost of power component, prior to its next rebasing application (pg. 11). Burlington notes that these studies are expensive and Burlington has not included the costs of such a study in its forecast. If the Board elects to order Burlington to complete such a study prior to its next rebasing application, Burlington submits that the costs of such a study be placed into a deferral account to reflect the unexpected and incremental nature of the expense. Burlington will seek to dispose of this account at its next rebasing application, at the same time it files its completed lead/lag study.

**Elimination of PST**

[18] See response to Energy Probe IR#37.
[19] See response to Energy Probe IR#37 and response to Energy Probe IR#40.

30. Burlington did not account for the harmonization of taxes into HST in the Application, and purchases that would otherwise have attracted PST have not been reduced in cost in the development of Burlington's capital forecast. In response to Energy Probe IR#1, Burlington identified a total amount of $344,929 as the estimated costs of PST included in its 2010 capital expenditures forecast. Given the July 1 implementation date, an amount of $172,465 would represent the half year of impacts.

31. Energy Probe, SEC and VECC submit that the amount of $172,465 is an appropriate reduction to the 2010 capital addition forecast. VECC further submits that a variance account be established to track the difference between this amount and the tax savings in 2010. Board Staff did not comment on the reduction in the forecasted level of capital expenditures to reflect the cost of PST, but did note that the Board may want to consider the establishment of a variance account to track savings that may arise.

32. Burlington acknowledges that the change in PST will have an impact to capital expenditure costs. Burlington also feels that the cost estimate as provided in the response to Energy Probe IR#1 is accurate to the forecast that has been prepared for the purposes of setting rates in 2010. Should it be determined by the Board that it is appropriate to make a change based on the change in tax, Burlington would support the reduction in the capital forecast by the calculated amount. The establishment of a variance account will have significant impact on Burlington's internal operations, as it would be required to review every invoice to determine if this had been in the forecast, would it have attracted PST, and what dollar value would be tracked.[20]

## D. OPERATING REVENUE

33. Burlington has determined its operating revenue, a combination of throughput revenue and other revenue, for the 2010 test year as detailed in Exhibit 3 of the Application. Board staff and intervenors made submissions on the following items: (i) load forecasting; (ii) customer forecasts; (iii) weather normalization; and (iv) other distribution revenues. Burlington's submissions in respect of each of these specific items are discussed in more detail below.

### Load Forecast

[20] See response to OEB Supplemental IR #1.

34. Burlington has used an econometric model based on a regression analysis to generate the 2010 proposed billed load forecast of 1615.3 (GWh). The load forecasting method used by Burlington is similar to the method used by a number of 2009 and 2010 rebased/cost of service applicants. Board Staff and intervenors have identified one specific concern with the load forecasting methodology used by Burlington. The concern relates to the negative coefficient for the "number of customers" variable, resulting from the regression analysis, which staff and intervenors suggest is conceptually counter-intuitive because it implies that load decreases as the number of customers increase.

35. In order to address this concern, Board staff recommends that the NAC approach, which was used in the 2008 and some 2009 rebased/cost of service applications, be used to determine Burlington's 2010 load forecast. This would result in billed load forecast of 1,762.4 (GWh). Energy Probe supports the use of the methodology used by Burlington but is concerned with the negative coefficient on number of customers. Energy Probe's solution is to eliminate the number of customers as a variable from the regression analysis which results in a 2010 billed load forecast of 1,703.3 (GWh). VECC is in agreement with Energy Probe and does not agree with Board staff's proposal. In VECC's view the Board staff's proposal is likely too high as it does not account for the recent economic turn down nor any CDM trends since 2004. VECC and other intervenors expressed concerns during the 2008 EDR process regarding the use of the NAC approach as it is based on only one year of historic data, being 2004. These concerns are heightened with the passage of time. SEC's proposal is to go half between Board staff's and Energy Probes proposal, suggesting a 2010 billed load forecast of 1,732.9 (GWh).

*The Recent History of Load Forecasting in Distribution Rate Applications*

36. Burlington would like to begin by reminding the Board of the relatively recent history of steps that distributors have taken to provide a weather normalized load forecast in their cost of service rate applications in a manner that is transparent and cost effective. Prior to 2008, distributors did not conduct weather normalization load forecasting studies within their companies. Any weather normalization requirements were generally provided by Hydro One for the distributors but the Hydro One methodology was not transparent and was quite expensive.

37. In 2008, Burlington observed that in order to control expenses, cost of service applicants generally used the NAC approach discussed above to prepare the weather normalized load forecast. Board Staff, intervenors and to a certain degree the Board expressed concerns during

the 2008 EDR process regarding the use of the NAC approach as it focused on one year of data from 2004. In response to this concern, Burlington observed that a number of 2009 cost of service applicants adopted a regression analysis approach to produce a weather normalized load forecast for system purchases. The system purchased load forecast was adjusted by a historical loss factor to derive the system wide billed energy forecast. The system-wide billed energy forecast was allocated to a rate class using a forecast of customer numbers and historical usage per customer. Again, Board Staff, intervenors and to a certain degree the Board expressed concerns during the 2009 EDR process regarding the use of the regression analysis approach as applicants did not conduct the regression analysis on a individual rate class basis.

38. In response to the concerns raised during the 2009 EDR process, Burlington and other 2010 cost of service applicants attempted to improve the regression analysis approach by conducting the analysis on a individual rate class basis but the statistical results of this exercise were not acceptable. As a result, Burlington used a regression analysis approach similar to the 2009 cost of service applications. Once again, Board Staff and intervenors are concerned that the negative coefficient on some variables is counter intuitive and while Burlington acknowledges this concern it is Burlington's submission that a negative coefficient does not, in and of itself, invalidate the results of the regression analysis, particularly where the negative coefficient can be adequately explained (as detailed further below) and particularly where the regression analysis produces forecasts that are much more accurate and transparent than the alternative models proposed by Board Staff and the intervenors.

39. In its submissions, SEC noted that load forecasting is a common element to all applications, and one in which the Board ultimately has to select a preferred approach. With that in mind, SEC believes that it would assist the industry, and all parties to the rate-making process, if the Board established a process – whether consultation, generic hearing, or otherwise - to review the various models in a disciplined way, and reach conclusions on which approach or approaches are acceptable in electricity distribution rate applications. SEC believes it is now time to establish standards. This will improve the overall quality of rate applications, provide consistency across distributors, and save substantial amounts of time and money that the distributors would probably prefer to use in other ways. Burlington is in complete agreement with SEC on this issue and believes is it time to establish standards for weather normalized load forecasts for use in future cost of service rate applications. Burlington submits that any proposed

standard should produce a load forecast methodology that is transparent and not overly costly to customers.

40. Setting aside the negative coefficient, on a positive note it appears to Burlington that all parties are generally in agreement with the overall weather normalized load forecasting methodology. At this point in the evolution of load forecasting for electricity distributors, it appears to Burlington the current issues are around "fine tuning" the methodology to ensure items such as counter intuitive negative coefficients are addressed prior to future applications. Burlington would expect that the next step in the evolution of load forecasting will be to agree on the appropriate dependent variables to be used in the regression analysis and the assumptions used to allocate the total system billed energy forecast to rate class. Assuming this to be the case, Burlington believes it is time for the Board to establish standards to confirm the load forecasting methodology with parties and to agree on such items as the appropriate dependent variables and the rate class allocation assumptions. Burlington agrees with SEC that this will improve the overall quality of rate applications, provide consistency across distributors, and save substantial amounts of time and money that the distributors could use in other ways.

*Burlington Hydro Submissions*

41. For the reason outlined below, Burlington submits a 2010 billed load forecast of 1,615.3 (GWh) is a reasonable forecast for purposes of designing rates in this application.

42. As stated in the evidence, Burlington was aware of the negative coefficient on number of customers and attempted to take steps to address the situation. However, when Burlington took these steps it did not produce a result that reasonably reflected the impact of CDM programs and the recent economic downturn for Burlington's service area. As a result, Burlington concluded the negative coefficient on number of customers was an acceptable result because it addressed the results of various CDM programs and to certain degree the additional economic downturn specific to the Burlington service area that was not captured in the provincial GDP values.

43. Burlington does not agree with the 2010 load forecast proposed by Board Staff for the same reasons as VECC does not agree with Board Staff's approach and Burlington adopts VECC's submissions in this regard. Burlington also does not agree with the proposal presented by Energy Probe and SEC. Since the SEC proposal is the half way point between Board Staff and

Energy Probe, Burlington Hydro will focus it's discussion to address it's concerns with the Energy Probe proposal.

44. In summary, Burlington Hydro submits the Energy Probe proposed 2010 billed load forecast of 1,703.3 (GWh) is fundamentally flawed because it does not account for the following:

(a) The October 22, 2009 Ontario GDP numbers shown provided in response to VECC 14c;

(b) Preliminary 2009 billed results (prior to year end unbilled adjustments); and

(c) The impact of CDM programs.

45. Energy Probe has based the proposed load forecast on Burlington's response to Board Staff's Supplemental IR#4. Under the assumptions outlined in the question, the response indicated the 2010 purchased load forecast amount would be 1,772.6 (GWh). Energy Probe has correctly divided this purchased forecast amount by 1.0407, which represent the loss factor, to arrive at a 2010 billed load forecast of 1,703.3 (GWh). However, this forecast does not reflect the most current Ontario GDP values included the Minister's of Finance 2009 Ontario Economic Outlook and Fiscal Review released on October 22, 2009. The updated Ontario GDP values are provided in response to VECC 14c and indicate a higher economic downturn than was used in the purchased load forecast outlined in response to Board staff's supplemental interrogatory #4. As a result, Energy Probe's proposed load forecast does not reflect the updated Ontario GDP which when applied would produce a lower forecast.

46. For 2009, the bridge year, Burlington's load forecasting methodology proposes a billed load forecast of 1,624.1 (GWh). Based on preliminary year end results, Burlington's actual 2009 billed amount is 1590.7 (GWh) but this amount is not weather normalized. In order to convert this amount to a weather normal value the following table has been prepared.

| Year | Predicted Weather Actual as per Exhibit 3, Tab 2, Schedule 1, Page 12 of 25 | Predicted Weather Normal as per response to VECC 15a | Weather Correction Factor |
|---|---|---|---|
| **Purchased Energy (GWh)** | | | |
| 1996 | 1,405.8 | 1,418.9 | 0.9% |
| 1997 | 1,410.6 | 1,435.5 | 1.8% |
| 1998 | 1,478.9 | 1,476.0 | (0.2%) |
| 1999 | 1,563.8 | 1,544.8 | (1.2%) |
| 2000 | 1,603.5 | 1,622.9 | 1.2% |
| 2001 | 1,649.4 | 1,651.3 | 0.1% |
| 2002 | 1,710.4 | 1,675.4 | (2.0%) |
| 2003 | 1,682.9 | 1,687.5 | 0.3% |
| 2004 | 1,675.4 | 1,701.5 | 1.6% |
| 2005 | 1,760.9 | 1,719.9 | (2.3%) |
| 2006 | 1,738.8 | 1,746.7 | 0.5% |
| 2007 | 1,794.3 | 1,775.8 | (1.0%) |
| 2008 | 1,754.5 | 1,772.9 | 1.0% |

47. The above table has been developed from and is based upon information presented in the evidence. The predicted purchased values assuming weather actual conditions are from Exhibit 3, Tab 2, Schedule 1, Page 12 of 25. The predicted purchased values assuming weather normal conditions are from response to VECC 15a. The weather correction factor indicates by year the difference between weather actual to weather normal values. The highest weather correction factor occurs in 1997 which is 1.8%. In order to convert the 2009 actual billed amount to an estimated 2009 weather normal billed amount, Burlington will accept the least favourable assumption to its position and apply the highest historical weather correction factor of 1.018 to the 2009 actual billed amount of 1,590.7 (GWh) to arrive at a value of 1,619.3 (GWh). Burlington's 2009 billed load forecast is 1,624.1 (GWh). Burlington submits that its proposed load forecast is much more accurate than the approach proposed by Board Staff or the intervenors particularly in light of the 2009 actuals.

48. The load forecasting method used in Burlington's rate application to forecast billed load for 2009 is consistent with the method used for 2010. Since the 2009 weather normal results reflecting actual data (i.e. 1,619.3 GWh) is consistent with the 2009 weather normal forecast (i.e. 1,624.1 GWh) this suggests the proposed weather normal 2010 billed load forecast would

be more consistent with actual 2010 weather normal results than the Energy Probe or Board Staff proposals. As a result, Burlington submits that the proposed 2010 billed load forecast amount of 1,615.3 (GWh) is reasonable for purposes of designing rates in this application.

*49.* With regards to the negative coefficient on number of customers, similar results occurred in the Cambridge and North Dumfries Hydro Inc. ("Cambridge") 2010 rate application except the negative coefficient was applied to the population variable. Cambridge used population in their regression analysis in place of number of customers. In VECC interrogatories 14(b) and (c) to Cambridge, VECC requested the following information:

*(b) Exhibit 3,(this has been added) Page 15 suggests that the negative coefficient for the Population variable is because this variable is also capturing the increasing effect of CDM. Has Cambridge tried any model specifications aimed a separating out the effect of CDM from what one would expect to be the positive correlation between power purchases and population? If yes, what models were tested and why were they rejected?*

*(c) If the response to part (b) is no. please provide the results of a model formulation which includes the same explanatory variables as currently proposed by Cambridge and also includes a trend variable to capture CDM. Please provide the resulting statistics and a forecast for 2009 and 2010 based on the model.*

50. Cambridge's response to (b) was no and the response to (c) was as follows:

*Cambridge and North Dumfries Hydro Inc. has rerun the regression analysis and included a trend variable to capture CDM. The trend variable starts a 1 on January 2006 and grows to 60 by December 2010. The following table provides the resulting statistics and a forecast for 2009 and 2010.*

| Regression Statistics | Value |
|---|---|
| Multiple R | 97.8% |
| R Square | 95.7% |
| Adjusted R Square | 95.4% |
| F- Test | 407.4 |
| | |
| T-Stats by Coefficient | |
| Intercept | (6.90) |
| Heating Degree Days | 12.91 |
| Cooling Degree Days | 5.74 |
| Ontario Real GDP Monthly | 4.07 |
| Number of Days in Month | 7.47 |
| Spring Fall Flag | 0.13 |
| Population | 2.01 |
| Number of Peak Hours | 8.78 |
| CDM Flag | (6.83) |
| Purchased Forecast | |
| 2009 (W N) - kWh | 1,468,651,648 |
| 2010 (W N) - kWh | 1,429,225,393 |

51. The results in the above analysis shifted the negative coefficients away from the population variable and assigned it to the CDM flag. The T-Stats by Coefficient indicates not only the statistical significance of the variable but also the sign of the coefficient. For example, the T-Stat information for the CDM flag of (6.83) indicates the variable is somewhat significant and it indicates the coefficient is negative. As shown above the 2010 load forecast for Cambridge is 1,429.2 (GWh). In Cambridge's rate application the 2010 load forecast is 1,522.6 (GWh) which assumes a negative coefficient on the population variable.

52. VECC did not ask a similar question of Burlington in the interrogatory process even though similar conditions applied. However, Burlington believes that a similar result would occur if a CDM flag variable was included in its regression analysis. If the CDM flag was included, Burlington would expect the negative coefficient to the move from number of customers to the CDM flag and the coefficient for number of customers would be positive. In other words, the results of the regression analysis would produce intuitive coefficients on all variables. In addition, Burlington Hydro would expect the 2010 weather normal forecast to be lower than 1,615.3 (GWh) similar to the results of the Cambridge analysis. Burlington is not suggesting the 2010 billed load forecast of 1,615.3 (GWh) should be reduced. However, based on the above discussion Burlington submits the proposed 2010 billed load forecast of 1,615.3 (GWh) is reasonable and should be approved by the Board.

**Customer Forecast.**

53. The following table outlines the 2010 customer/connection forecast from Burlington Hydro's rate application.[21]

| 2010 Test Year Customer/Connection Count Forecast | |
|---|---|
| **Rate Class** | **Customers/Connections** |
| Residential | 58,643 |
| GS<50 kW | 5,028 |
| GS>50 kW | 1,030 |
| Street Lights | 14,673 |
| Unmetered Load | 602 |
| **TOTAL** | **79,977** |

54. Board staff and intervernors did not make any submissions with regards to suggested changes to the proposed 2010 customer/connection forecast. Burlington submits the 2010 customer/connection forecast has been accepted by all parties and should be approved by the Board.

**Weather Normalization**

55. No party has taken issue with the use of 13 years average for the purposes of weather normalizing the forecast of 2010 energy purchases. However, for the purpose of developing a 2010 rate class weather normalized billed load forecast Energy Probe and VECC is suggesting that it would be more reasonable to assume that 50% of volumes consumed by residential and GS < 50 kW customers are weather related instead of 100%.

56. Burlington Hydro submits the use of 13 years average for the purposes of weather normalizing the forecast of 2010 energy purchases has been accepted by all parties and should be approved by the Board. In the spirit of cooperation, Burlington accepts Energy Probe and VECC's suggestion that it would be more reasonable to assume that 50% of volumes consumed by residential and GS < 50 kW customers are weather related and should be reflected in the approved load forecast.

**Other Distribution Revenue**

[21] See Exhibit 3, Tab 2, Schedule 1, Page 15.

57. Burlington had included a 2010 forecast for total other distribution revenue of $1,583,902 in its original filing. Through the interrogatory process, it was determined that the SSA administration fees in the amount of $175,417 had been omitted from this forecast. As indicated in the response to Board Staff Supplemental IR#8, Burlington has adjusted the revenue to reflect this amount.

58. Board Staff and SEC did not comment on the other distribution revenue. VECC had no submissions on other distribution revenue, but did note that Burlington had amended the forecast to include the SSA admin fee as described above. Energy Probe submitted that the revision to other revenue to reflect the SSA admin fee is appropriate and should be accepted.

59. Energy Probe also suggested that the service charges for 2010 should be increased by $100,000 to a level comparable to the 2007 and 2008 amounts. The Board should reject Energy Probe's suggestion as arbitrary and inappropriate. The evidence demonstrates that the variance between the 2009 forecast and 2010 is due to a $113,000 one-time reversal of the Incentive Compensation Plan.[22] Burlington submits that it cannot be reasonably expected that such a reversal would occur in subsequent years during the rebasing period.

60. Finally, Energy Probe submits that it is inappropriate for Burlington to not charge the Board approved rental rates for use of its poles to the City of Burlington. If a reasonably accurate estimate of this revenue can not be determined, then Energy Probe submits that there should be a deferral account established to capture this revenue. Burlington submits that a deferral account is not necessary to capture these rental charges. Specifically, the City of Burlington currently allows Burlington to place its hydro poles on City of Burlington lands without requiring Burlington to pay any fees for access to these lands – this rent free use of City land serves to benefit all Burlington rate payers. However, in consideration of Burlington's right to use City land for its hydro poles the City of Burlington has the right pursuant to the Shareholder Declaration to access Burlington's hydro poles without the provision of a rental rate. Burlington submits that taken in context, it is appropriate that Burlington does not charge the City of Burlington for use of hydro poles.

## E. OPERATIONS, MAINTENANCE AND ADMINISTRATION

### Background

[22] See response to VECC IR#17(a).

61. For the 2010 test year, Burlington is requesting approval of $14,796,994 in OM&A expenses (excluding depreciation/amortization, PILs and interest) and $21,484,086 in operating expenses (including depreciation/amortization). These OM&A expenses represent Burlington's integrated set of asset maintenance and customer activity needs to meet public and employee safety objectives; to comply with the *Distribution System Code*, environmental requirements and government directives; and to maintain distribution business service quality and reliability at targeted performance levels. These OM&A expenses also include providing services to customers connected to Burlington's distribution system, and meeting the requirements of the Board's *Standard Supply Service Code* and *Retail Settlement Code*. The table below summarizes the requested OM&A expenses by category.[23]

**Summary of Operating Costs**

| Description | 2006 Board Approved | 2006 Actual | 2007 Actual | 2008 Actual | 2009 Bridge | 2010 Test |
|---|---|---|---|---|---|---|
| Operation | 2,846,089 | 3,501,950 | 3,607,258 | 4,383,027 | 4,157,707 | 4,513,354 |
| Maintenance | 2,154,745 | 2,652,339 | 2,664,758 | 2,411,913 | 2,613,009 | 2,894,945 |
| Billing and Collections | 1,972,864 | 1,997,392 | 2,091,157 | 2,298,488 | 2,317,744 | 2,348,908 |
| Community Relations | 411,491 | 436,651 | 538,029 | 41,317 | 47,101 | 80,687 |
| Administrative and General Expenses | 3,841,086 | 3,501,772 | 3,791,023 | 3,910,354 | 4,901,006 | 4,959,100 |
| Subtotal | 11,226,275 | 12,090,103 | 12,692,225 | 13,045,099 | 14,036,568 | 14,796,994 |
| Amortization Expenses | 5,715,922 | 5,920,601 | 6,128,220 | 6,205,927 | 6,436,328 | 6,687,092 |
| Total Operating Costs | 16,942,197 | 18,010,705 | 18,820,445 | 19,251,027 | 20,472,896 | 21,484,086 |

62. Board staff and intervenors made submissions on the following items: (i) Inflation; (ii) Tree trimming; (iii) Bad debt and accounts receivable insurance; (iv) Rate rebasing costs; (v) One time costs; (vi) Low-income energy assistance program (LEAP); (vii) Smart meter bank fees; (viii) Board of Directors fees; (ix) Employee costs (including wage increases, incentive pay, Regulatory Accountant role addition and contracted labour); (x) Depreciation; (xi) Tax issues (including PST); and (xii) the general level of increase in OM&A Expenses. Burlington's submissions in respect of each of these specific items are discussed in more detail below.

**Inflation**

63. Burlington indicated that it applied a 2% inflation rate to forecast 2010 O&MA costs, with this inflation rate based on the Consumer Price Index as reported by the Bank of Canada in July of

[23] This table is based on evidence in Exhibit 4, Tab 1, Page 1 with the 2010 test year column adjusted with the changes in response to Board Staff Supplemental IR #8.

2008.[24] Board Staff has no concerns with the provision in 2010 OM&A for inflation. Energy Probe, SEC and VECC did not address inflation in their submissions.

64. Burlington generates its OM&A budget based on a detailed review that includes a review of historical spending, specific requirements anticipated in the future and where no changes are identified, the application of an inflation factor. Burlington submits that the July 2008 Bank of Canada CPI inflation factor is appropriate for and appropriately used in the Application.

**Tree Trimming**

65. In response to Board Staff IR#10, Burlington noted that the City of Burlington has been divided into sections and is trimmed on a three year cycle. Depending on the section that is being trimmed, there may be higher or lower costs estimated for a given year. This annual plan is in addition to miscellaneous expenditures which would include items such as storm damage and customer calls. Burlington has provided the following cost forecast for its 3 year tree trimming cycle.[25]:

| ITEM | 2010 | 2011 | 2012 | 2013 |
|---|---|---|---|---|
| Annual Expenditure | $341,421 | $257,200 | $350,870 | $348,000 |
| Miscellaneous Expenditure | $107,100 | $107,100 | $107,100 | $109,000 |
| Total | $448,521 | $364,300 | $457,970 | $457,000 |

66. Board staff suggest that the inclusion of $448,521 in 2010 rates would result in over compensating Burlington for its tree trimming cycle by $66,293 over 4 years. As a result, Board Staff recommends that the tree trimming costs be normalized, and reduced by $16,573, over the IRM period to ensure no over-collection. Energy Probe and VECC also submitted that these costs should be normalized.

67. SEC disagreed with the normalization approach proposed by Energy Probe, VECC and Board Staff. In particular, SEC notes that a cost of service application is done for one representative year, with many costs higher or lower from year to year. SEC notes that to date the Board has taken the approach to identify a few exceptional cost categories, such as Regulatory Costs, that are treated differently. SEC submits that the Board should not extend this practice to normalizing additional costs as such a practice could run the risk of being unfair to either

[24] See Exhibit 4, Tab 1, Page 2.
[25] See Board Staff Supplemental IR#2.

ratepayers or the utility unless all costs are normalized. This practice may create more complex and contentious applications with few long term benefits.

68. Burlington agrees with SEC's position that the Board should not start normalizing particular OM&A costs on a one-off and haphazard basis, subject to the few established and well justified exceptions (such as Regulatory Costs, which costs clearly occur during the test year and then significantly decrease in subsequent years). By adopting an IRM process that is premised on a forward test-year cost of service methodology, the Board has established its policy for rebasing applications and has accepted some risks inherent in its approach. One such risk is illustrated by the tree trimming scenario, that in the test year an operating cost may be higher than the average of that cost over the entire IRM period. In this situation, as Board staff note, a utility may over recover during the IRM period. Another risk, however, is that in the test year an operating cost may be lower than the average of that cost over the entire IRM period. In this situation a utility will under recover during the IRM period. Together, these two risks establish a tenuous balance as the chance of over recovery offsets the risk of under recovery. Burlington submits that the Board carefully consider before it chooses to upset this balance in a clearly one-sided manner.

69. As described in evidence and through interrogatories, Burlington has awarded a 3 year tree trimming contract for the entire City starting in 2010. The tree trimming budget provided in evidence covers the years 2010 to 2013. The geographical boundary and volume of work prescribed in the tender is defined per contract year and cannot be altered. Without the ability to redefine the tree trimming area, Burlington is unable to normalize the planned work to match any budget normalization. As a result, Board Staff's proposal, if accepted by the Board, will cause Burlington to under recover its tree trimming costs for 2010 by $16,573. Burlington further submits that there may be other OM&A costs that are on a cost cycle that may cause Burlington to be undercompensated during an IRM period as well. Burlington further submits that the increased tree trimming costs for 2010 are reflective of where BHI is in the trimming cycle and is in no way strategic in design. Finally, Burlington submits that if the Board accepts that a normalizing methodology is appropriate, then it should adopt a comprehensive and consistent policy to rate applications using a forward test-years (IRM period normalized) cost of service methodology.

**Bad Debt and Accounts Receivable Insurance**

70. Burlington has included a total forecasted amount of $430,000 for bad debt expenses in both 2009 and 2010. This amount includes $400,000 of bad debt related to uncollectible amounts from power sales, and is recorded in Account 5335. There is an additional amount of $30,000 that is related to billable jobs and recorded in Account 5665.[26] Burlington also included incremental costs related to accounts receivable insurance in the amounts of $88,000 and $19,000 for the years 2009 and 2010. Burlington purchased this insurance in 2009 in response to the deteriorating economy and 2008 write-off experience to protect Burlington's commercial receivables portfolio against the risk of credit default. As noted in its response to an interrogatory, the insurance is meant to mitigate the risk of a catastrophic loss due to non-payment risk from a large customer. The insurance coverage provides no protection from residential default nor does it cover small commercial risk.

71. Board Staff indicated that they have no concerns with the provision in 2010 OM&A of $19,000 for insurance costs and noted that Burlington's bad debt expense for 2008 was $405,047 and $400,000 for 2009 and 2010 (pg. 13). Energy Probe argues that the forecast for 2010 is too high based on the year-to-date actual 2009 amount presented in response to Energy Probe IR#53, and as a result Energy Probe suggests that the bad debt amount should be reduced by $50,000 particularly given the decline experienced in 2009 and the slow improvement in the economic outlook expected for 2010. SEC adopts the submissions of Energy Probe, while VECC submits that an allowance of $320,000 would be appropriate in the circumstances thereby reducing the revenue requirement by $80,000.

72. Burlington submits that the reductions proposed by Energy Probe, SEC and VECC are arbitrary and are not supported by the evidence. To clarify its response to Energy Probe IR#53 Burlington notes that while it does book bad debt throughout the year Burlington also books a not immaterial amount of bad debt during its year end review processes (i.e. through auditor adjustments that occur in February of the following year). Based on year-to-date experience, Burlington expects that it will continue on budget with its bad debt expenses for 2009 and 2010. Burlington notes that the economic outlook for 2010 has actually worsened since the original forecast used in the Application: "On October 22, 2009 the Ontario Minister of Finance provided a fall update to the 2009 Ontario Economic Outlook and Fiscal Review. In this review the 2009 GDP was updated from -2.5% to -3.5% and the 2010 GDP was updated from 2.3% to

[26] See response to Board Staff IR#11.

2.0%."[27] As is evident from these numbers, Ontario GDP numbers have actually worsened in this update reinforcing the expectation that 2010 will be even weaker than originally forecast. Burlington submits that the bad debt forecast of $430,000 remains appropriate.

**Rate Rebasing Costs**

73. Burlington originally applied for recovery of $381,546 of regulatory costs associated with this cost of service application. In response to SEC Supplemental IR#25, Burlington noted that these costs would reduce to $311,546 if there was no oral component in the application process. Burlington acknowledges that pursuant to Procedural Order No. 2, this proceeding would follow a written process and that as a result Burlington is requesting recovery of $311,546 as summarized in the table below.[28] Burlington submits that these amounts are reasonable and should be approved by the Board.

| Costs associates with preparation of CoS | Total Forecasted Cost |
|---|---|
| OEB Hearing Assessments (applicant initiated) | $ 25,000 |
| Legal Costs for regulatory matters | $ 51,000 |
| Consultants costs for regulatory matters | $ 46,947 |
| Operating Expenses associated with staff resources | $153,599 |
| Intervenor costs | $ 35,000 |
| Total | $311,546 |

74. Board Staff note that Burlington has claimed $51,000 for legal costs associated with the preparation of its application, but since this proceeding was conducted entirely in writing, Board Staff submit that it is unclear what legal services were rendered and Burlington has not provided any evidence to support the claim for legal costs.

75. Burlington submits that it has already acknowledged a reduction in legal costs due to the written hearing process, and it should not be penalized by a further reduction in legal costs only because this proceeding has progressed by way of a written hearing. Burlington has incurred numerous legal costs associated with obtaining ongoing strategic advice on the Application in light of an ever-shifting legal and regulatory framework created as a result of the Green Energy Act. While Board Staff may find it unclear why utilities require legal advice, at the time Burlington was preparing its Application there were roughly 12 ongoing Green Energy initiatives at the Board, some of which directly affected distribution rate applications (for instance, distributors were

[27] See response to VECC IR#14(c).
[28] See response to SEC IR#25.

encouraged but not required to file green energy plans as part of their distribution rate applications). Burlington retained legal advice in advance of filing the Application to assess the opportunities and risks associated with each of the Board's new initiatives. Based on that advice Burlington made a strategic choice to take a low-risk approach to the Application – Burlington's objective was to keep its application straight forward and avoid the costs of a contentious oral hearing.[29] Given that Burlington's application proceeded by way of a written hearing based in large part on legal advice Burlington procured in advance of the Application process to achieve that end, it seems entirely unfair to now deny Burlington these legal costs because its risk mitigation strategy succeeded. In addition, Burlington notes that it retained legal services to assist in reviewing roughly 137 pages of Board Staff and intervenor submissions and preparing this comprehensive reply submission in response. Based on the foregoing, Burlington submits that its forecast of $51,000 for legal costs is entirely reasonable.

76. Energy Probe agrees that the 4 year amortization period is appropriate, however Energy Probe submits that the costs of $311,546 are too high based on a comparison of 2009 rebasing costs of other LDCs that have proceeded by way of a written process. Energy Probe submits that Burlington's costs should be reduced to a level of $186,546. Finally, VECC submits that the total costs exceed 2009 applications and that the total costs should be reduced by at least $200,000 in total, with a reduction to 2010 OM&A of at least $50,000. SEC adopted the submissions of VECC. Burlington submits that the reductions proposed by intervenors are arbitrary and should be rejected. Specifically, comparisons to 2009 averages does not take into account the high degree of uncertainty faced by Burlington in its 2010 application as a result of changes wrought by the Green Energy Act, nor do the comparisons take into account Burlington's evidence supporting the need for a new staff resource, the additional costs incurred to prepare the asset management report (which was praised by Board Staff), and the additional costs to prepare the LRAM/SSM report.

77. Burlington has also included $153,599 related to operating expenses associated with staff resources. These costs are related to incremental temporary staff costs to assist Accounting and Regulatory areas. In its submission, Board Staff has requested a clear explanation, supported by evidence that is already on the record of this proceeding, as to whether these costs relate to overtime hours, backfill positions, or contract employees. The table below provides a

[29] See, for instance, Exhibit 4, Tab 2, Schedule 9.

breakdown of the $153,599 staffing costs which is already on the record in this proceeding[30] and simply clarifies the area and nature of staff duties. Burlington notes that the costs represent more than one year of assistance from these individuals, as they were engaged from September 2008 through 2009. Costs were reflected throughout these years, as had been noted in response to Board Staff IR #12.

| Description | Total Cost | 2008 | 2009 | Time Period | Activities |
|---|---|---|---|---|---|
| Accounting temporary staff | 99,192 | 24,750 | 74,442 | Oct. 2008-Dec. 2009 | Additional accounting assistance, acquired through Saffing Agency. Combination of backfill of Accountant and Controller duties and rebasing activities. Most duties to be filled by Regulatory Accountant. |
| Regulatory backfill | 54,407 | 15,881 | 38,526 | Sept. 2008-Aug. 2009 | Backfilled Conservation & Reguatory analyst to prepare for first rebasing application process. |
| | 153,599 | 40,631 | 112,968 | | |

78. Burlington notes that part of these costs relate to a net new Regulatory Accountant position, as more completely detailed in response to Energy Probe IR#3. The additional role was created to reduce the cost of hiring temporary staff by providing accounting and regulatory support to the Controller and Staff Accountant which personnel are already experiencing significant overtime. Burlington submits that together these costs were incurred to ensure Burlington could meet the Board's established timelines in relation to the Application and Burlington has accomplished this in a diligent and professional manner given the circumstances.

**One Time Costs**

79. Burlington included one-time costs in the OM&A expenses for 2010 in the amount of $34,300. These costs are detailed in the response to Energy Probe IR#54. Board Staff did not comment on the one-time costs. Energy Probe and VECC submit that these costs should be normalized and the amount included in 2010 be reduced by $17,150. SEC adopts the submissions of Energy Probe and VECC.

80. Burlington submits that these one-time costs, similar to the tree-trimming costs, should be accepted as presented. While Burlington has provided one-time costs of $34,300 in 2010, there are other one-time costs that will arise from year to year in the future that are not included in Burlington's request for relief. Similar to the argument included at paragraphs 68-69 above, Burlington does not feel that these costs are excessive, nor should they be normalized in this process.

[30] See Exhibit 4, Tab 2, Schedule 5, response to Board Staff IR#12 and response to SEC Supplemental IR#25.

**Low Income Energy Assistance Program (LEAP)**

81. Burlington has included an amount of $39,000 in the Application related to new low income energy assistance programs to meet the requirement and guidelines of the Board.[31] Burlington acknowledged that the Board's letter dated September 28, 2009 indicated that the Board was deferring further work on LEAP as a result of a request from the Minister of Energy and Infrastructure, however, Burlington continues to request recovery of amounts relating to new low income energy assistance programs in its forecast because it reasonably to expect that the utility will incur equivalent costs associated with a new low income assistance program developed by the Board as part of the Ministry's integrated program.[32]

82. Board Staff suggest that the costs relating to new LEAP programs should be removed at this time, because the Board has not yet received further guidance from the Ministry regarding a program for low-income energy consumers. Similarly, Energy Probe and SEC suggest that the costs of $39,000 should be removed from the revenue requirement. VECC suggests that the inclusion of amounts for both the existing winter warmth program ($25,000) and LEAP is double counting, and the OM&A expenses should be reduced by at least $25,000 to acknowledge this.

83. Burlington submits that it has included a reasonable forecast of the costs associated with continuing the existing winter warmth program as well as the incremental costs associated with creating new low-income energy assistance programs. Burlington submits that the Board should allow recovery of these reasonable forecasts of the costs associated with implementing these programs. In the alternative, Burlington submits that if the Board opts to deny recovery to Burlington for these programs that the Board should also exempt Burlington from any forthcoming requirements the Board may create requiring Burlington to implement programs of this nature in advance of Burlington's next cost-of-service application. The principle is one of fairness.

**Smart Meter Bank Fees**

[31] See Exhibit 4, Tab 2, Schedule 4, Page 20.
[32] See response to Board Staff IR#14.

84. Board Staff and VECC did not specifically comment on the smart meter bank fees. Energy Probe submits that the reduction to OM&A related to smart meter bank fees should be $12,000 instead of $4,000. SEC adopt the submission of Energy Probe.

85. Burlington submits that the appropriate reduction is $4,000 and Energy Probe's proposal should be rejected. As outlined in response Energy Probe Supplementary IR# 46, the bank fee associated with the Smart Meter funding is $12,000, however this fee is recorded as an expense beginning May 1, 2009 and straddled over two fiscal years, that being 2009 and ending May 1, 2010. In 2009, $8,000 of the fee was erroneously recorded as an OM&A expense and was properly moved to account 1555 for 2009. In 2010, the remaining $4,000 was erroneously recorded as an OM&A expense and was properly reduced and moved to account 1555 for 2010. Burlington submits that because only $4,000 was recorded as an expense for the 2010 OM&A, Burlington correctly reduced its OM&A expenses for the 2010 test year by $4,000.

**Board of Directors Fees**

86. As a component of the OM&A costs, Burlington has included $127,500 for Board of Directors fees and an additional $32,800 associated with D&O insurance. This information is detailed in the response to Energy Probe IR #2. Board Staff did not specifically comment on these fees.

87. Energy Probe submits that these costs should be disallowed from recovery and a total of $160,300 should be removed from the OM&A forecast. This submission is based on the premise that Burlington has its own Board and any costs related to the parent company should not be paid by the ratepayers. SEC adopts the submissions of Energy Probe. VECC submits that the portion of the remuneration for the BHEI Board that is allocated to BHI should be removed, and the revenue requirement should be reduced by $127,500.

88. Burlington submits that the Board should reject these reductions as arbitrary. Like many LDCs in the Province, the City of Burlington adopted a holding company structure pursuant to Section 142 of the *Electricity Act, 1998* when incorporating Burlington Hydro Electric Inc. ("Holdco"), Burlington Electricity Services Inc. ("ServicesCo") and Burlington pursuant to the *Business Corporations Act* (Ontario). Pursuant to this structure, Burlington has a minimal three person Board of Directors including one independent director to provide oversight of the operations and management of Burlington. However, all principled strategic decisions including those decisions specifically identified as requiring shareholder approval pursuant to the Shareholder

Direction[33] must first be escalated to the Holdco Board of Directors. The Holdco Board meets on a monthly basis to oversee the operations of the LDC while the LDC Board meets only on a limited basis. As outlined in response to Energy Probe IR#2, the business of the Holdco Board is oversight of Burlington and ServicesCo and as a result the costs to operate this Board have been allocated directly to the entities that it oversees. Pursuant to this arrangement the HoldCo Board provides shared services directly to Burlington in the form of governance and strategic oversight that serves to support the ultimate decision making function of the Burlington three person Board. In return for these services the HoldCo Board charges Burlington its share of costs associated with that Board.

89. Burlington further notes that the $32,800 in D&O insurance costs (as outlined in response to Energy Probe IR#2) relates to coverage of both the directors of the HoldCo as well as the directors of the LDC. As such, it is inappropriate to suggest that the entire $32,800 be disallowed as an expense of the LDC. The LDC directors represent 3 of the total 10 directors. As such, 30% of the costs, or $9,840 of the D&O insurance costs would be attributable to the LDC Board.

90. If the Board elects to deny recovery of the HoldCo Board of Directors costs associated with providing governance and strategic oversight services to Burlington, Burlington submits that it could be necessary to undertake an internal reorganization moving directors from the HoldCo to the LDC board, insuring those members on the new board and increasing the frequency of the LDC board meetings to 12 per year. Burlington submits this reorganization would necessitate an expensive transaction cost (which amounts aren't included in the OM&A forecast) and would result in the same directors meeting at the LDC board level (subject to hiring additional independent directors) with a identical cost of $127,500 for Board of Directors fees and an additional $32,800 associated with D&O insurance.

**Employee Costs – Staff Changes and Contracted Labour**

91. Burlington has documented the payroll inflationary increases at 3.25% for 2006 and 2007, and 3% for each of 2008, 2009 and 2010; these increases are largely driven by its agreements with its unionized labour. In response to an interrogatory, Burlington identified inflationary costs for 2009 and 2010 to be $248,439 and $272,297 respectively. Other payroll increases from 2007 to

[33] See response to SEC IR#33.

2010 reflect the hiring of 10 new staff members for various positions. Burlington notes that this is due to the expected retirement of 21 employees between 2007 and 2012.[34] Burlington further identified the costs to staff changes, excluding inflation, to be $449,562 and $255,343 for 2009 and 2010 respectively.[35] Burlington has further identified an increase in contracted labour in the amounts of $41,425 and $122,191 for the years 2009 and 2010 respectively. The amounts are associated with regular inspection of all Burlington facilities and include short term preventative maintenance work.

92. Board staff acknowledged that Burlington has documented and supported its proposed labour expense increases. Board Staff has no concerns with the provision in 2010 OM&A for staffing changes and with the provision in 2010 OM&A for contracted labour.

93. Energy Probe submits that the Regulatory Accountant role has not been sufficiently justified and the $67,500 costs should be denied. SEC adopts the submissions of Energy Probe regarding the Regulatory Accountant.

94. Burlington submits that it has provided sufficient justification for the Regulatory Accountant role in response to Energy Probe IR#3. Notably, the duties of this position include all regulatory accounting functions currently carried out by the Controller and Staff Account. The role is not limited to those limited duties itemized by Energy Probe in its submissions. For example, the accounting and reconciliation of regulatory assets and liabilities, quarterly and annual OEB RRR filings, quarterly and annual OPA/OEB CDM filings, and quarterly review of variance account triggers are but a few examples of duties of this new role which Energy Probe has overlooked. As noted in response to Energy Probe IR#3, this new position will reduce the excessive hours of overtime presently incurred by the Controller and Staff Accountant. Overtime for this group has become the norm rather than the exception. As stated in Exhibit 4 Tab 4 Schedule 1 "In order to deal with the increasing demands and complexity of regulatory activities by the OEB it will be necessary to hire a Regulatory Accountant to assist with the increased workload." Burlington submits that its current staffing for these growing areas of responsibility is light. As shown in the organizational charts at Exhibit 1, Tab 1, Schedule 15, and described further at Exhibit 4, Tab 2, Schedule 1, Burlington has a Controller and Accountant to deal with all financial matters, and the Manager, Regulatory Affairs and Conservation & Regulatory Analyst to deal with all

[34] See Exhibit 4, Tab 4, Schedule 1.
[35] See response to VECC IR#19.

regulatory matters and deliver all conservation initiatives. Given the additional responsibilities in these areas Burlington submits that the addition of a Regulatory Accountant is warranted. This position is further supported in the argument related to rate rebasing costs and the cost of incremental staffing to prepare for, and proceed through, the rate application process.

95. Energy Probe suggests that the increases for non-unionized employees is excessive in comparison to unionized employees and to account for this a reduction of $62,000 is appropriate. SEC adopts the submissions of Energy Probe related to wage increases. VECC submits that the forecasted increase for unionized employees of 3.5% should be reduced to reflect the actual negotiated contract rate of 3.0%, that this reduction should be extended to non-unionized staff, and the revenue requirement should be reduced by $28,500 to reflect these changes.

96. Burlington submits that it will revise its forecasted increase for unionized employees to reflect the actual negotiated contract rate of 3.0%. This results in a total reduction for 2010 of $19,740, calculated based on the response to Energy Probe IR#44 for 2009 and inflated by 3% for 2010. Burlington submits no reductions are necessary to its forecasted increase for non-unionized staff, and that any reduction suggested by the intervenors are arbitrary and have no basis in evidence. As described in the response to Energy Probe IR #44, the 3.9% increase forecasted for non-union personnel includes progressions for junior staff in addition to merit increases based on a detailed merit matrix policy. The merit matrix system is included in the response to Energy Probe IR#17, and is dependent on performance level of the employees and the current position in the salary range. Each year any recommended compensation adjustments are based on market data information from various HR consultants and industry projections. Burlington submits that its forecasted increase for non-union personnel is based on an analysis of industry comparable increases adjusted for the specific complement of Burlington's current employees.

97. Finally, both Energy Probe and VECC submit that 50% of the costs of the employee incentive plan, or $102,000, should be paid by the shareholders and removed from the revenue requirement. Energy Probe suggests that the ratepayers should not be expected to pay for incentives for management to keep the distributor financially viable. SEC submits that since the criteria to trigger any payout are "in favour of the shareholder," all costs related to this plan should be disallowed and a reduction of $204,000 should be made.

98. Burlington submits that its inventive compensation plan is appropriately designed to motivate employees to exceed expectations when managing the utility in a manner that benefits Burlington's ratepayers. As noted in response to SEC IR#31, Burlington has tied its incentive compensation plan to individual performance objectives on a range of measures using a balanced scorecard methodology composed of return on equity (20%), EBIT (15%), free cash flow (15%), safety (20%), OEB customer call response (10%), OEB reliability to exceed 3 year average (10%), and number of customers served per employee (10%). Burlington submits that taken individually or taken together as a package, these measures all serve to benefit ratepayers directly. Energy Probe rightly acknowledges that safety, customer call response, reliability and customer service metrics all clearly benefit ratepayers.

99. Burlington submits that the ongoing financial viability of the utility, as reflected in its return on equity, free cash flow and EBIT performance, is also of great importance to ratepayers. Indeed, the Board's principal statutory objectives are "to protect the interests of consumers" and "to facilitate the maintenance of a financially viable electricity industry." The Board regularly reviews the financial viability of utilities as part of its role in protecting ratepayers (i) prior to granting a distribution license;[36] (ii) before granting leave to a merger, acquisition, amalgamation or divestiture of a distribution system;[37] and (iii) as part of a cost of service rate application.[38] Since ratepayers benefit directly from the Board's oversight of the financial viability of the electricity industry generally, and individual utilities in particular, it necessarily follows that ratepayers also benefit from management's efforts to maintain and improve the financially viability of Burlington (including ensuring the utility can pay its bills when they come due and potentially gaining access to cheaper financing rates).

100. It should also be noted that in the context of the Board's incentive regulation system, efficiencies that are found by management to drive financial performance such as return on equity, free cash flow and EBIT will go to benefit the shareholder only for a short period of time before a utility is required to rebase and distribute those efficiencies to the benefit of its ratepayers in perpetuity. Given this, Burlington submits that the financial performance metrics included in its balanced scorecard methodology do directly benefit ratepayers through the Board's incentive regulation system.

[36] See Sections 17 and 18 of the Board's distribution license application.
[37] See Sections 1.4 and 1.8 of the Board's Section 86 Application.
[38] See Section 2.2.3 of Chapter 2 of the Filing Requirements for Transmission and Distribution Applications.

**Depreciation**

101. Burlington has used the straight line method of amortization to determine the depreciation expense for all assets on a pooled basis.[39] Assets may be grouped for depreciation purposes if they share the same characteristics, especially economic life. An example of grouped assets would be meters or transformers. Burlington's depreciation rates are consistent with the rates found in Appendix B of the 2006 Electricity Distribution Rate Handbook. These rates are detailed in Burlington's Fixed Asset Policy.[40] The rates are unchanged from those filed as part of the 2006 EDR Application. For the purposes of this rate application, Burlington Hydro used the half year rule for calculating depreciation expense for the 2009 Bridge Year and 2010 Test Year.

102. Board Staff did not specifically comment on depreciation costs. Energy Probe submitted that the depreciation rates used by Burlington are consistent with the rates found in the Electricity Distributors Rate Handbook and should be accepted by the Board. Energy Probe further submits that the Board should accept the depreciation expense as calculated, with updates for any changes to the capital expenditures forecast. SEC and VECC submit that any changes in capital expenditures should be reflected in the depreciation expenses.

103. Burlington submits that the calculations are based on the Rate Handbook and appropriately calculated. Burlington accepts that these costs would be recalculated if required due to changes in the capital forecast.

**Tax Issues**

104. In its original application, Burlington requested a PILs allowance of $1,712,667 composed of $1,645,362 for grossed-up income taxes and $67,305 for capital taxes.[41] Burlington updated its ROE from 8.01% to 9.75% in response to the Board's December 11, 2009 cost of capital report and consequently increased the PILs allowance to $2,037,345, which amount is comprised of $1,970,040 for grossed-up income taxes and $67,305 for capital taxes.

[39] See Exhibit 4, Tab 7.
[40] See Exhibit 4, Tab 7, Schedule 1.
[41] See Exhibit 4, Tab 8, Schedule 1.

105. Board Staff acknowledges that Burlington's proposed PILs methodology and estimate, as amended through responses to interrogatories, is reasonable and complies with Board practice and policy and with known tax legislation.

106. Energy Probe submitted that there should be a reduction of $36,364 from OM&A and $172,465 from capital to reflect the HST harmonization effective July1, 2010. In addition to these reductions, Energy Probe submits that a variance account be established to track differences between this reduction and actual expenditures. VECC similarly noted that, subject to any changes that would result in a reduction of OM&A for 2010, there should be a reduction of approximately $36,000 to reflect the change in PST.

107. Consistent with other sections of this submission, Burlington acknowledges that the change in PST will have an impact to OM&A costs. Burlington also feels that the cost estimate as provided in the response to Energy Probe IR#1 is accurate to the forecast that has been prepared for the purposes of setting rates in 2010. Should it be determined by the Board that it is appropriate to make a change based on the shift to HST, Burlington would support the reduction in the OM&A forecast by the calculated amount. The establishment of a variance account will have a significant impact on Burlington as it will be required to review every invoice to determine if it had been in the forecast, would it have attracted PST, and what dollar value would be tracked (as described in response to OEB Supplemental IR #1).

108. Energy Probe accepted the correction made to the property tax amount in the 2010 forecast, and acknowledged that the Ontario Capital Tax calculation is appropriate and should be accepted by the Board. While Energy Probe acknowledged that the general income tax rates are appropriate, and that the capital cost allowance has been accurately reflected, there were items within the calculation of income tax that were questioned. Specifically, Energy Probe had concerns with the Provincial Small Business Deduction and Surtax, and noted that a net reduction of $18,750 should be applied to the revenue reduction. Energy Probe also noted that an additional $33,325 of income related to Federal ITCs should be disallowed, and that tax credits related to apprentices should be fully taken advantage of. VECC acknowledged that Burlington has used the tax rates from the 2009 Provincial Budget in the determination of PILs, but noted that the elimination of the surtax claw back of the small business deduction has not been reflected and the tax calculation should be revised. SEC adopted the submissions of Energy Probe.

109. Burlington submits that the determination of the PILs amount has been based on most current enacted legislation, as is consistent with the approach taken in completion of tax documents by tax professionals. The Application used 2009 Provincial Budget data where appropriate. Burlington submits that the PILs calculation is appropriate, with the acknowledgement that it may be revised should there be changes to the revenue requirement.

110. The impact of the elimination of the surtax was not factored into the Application as at the time, this change formed part of the budget and was not substantively enacted. Bill 218 to enact tax changes announced in Ontario's 2009 budget which included the elimination of the Ontario small business deduction clawback received Royal Assent on December 15, 2009. Prior to that date changes announced in the budget should not be incorporated in tax calculations as they were not substantively enacted. Burlington submits that the net reduction of $18,750 due to the Ontario small business deduction is now appropriate and that Burlington is not eligible for the federal small business deduction.

111. With respect to the Federal ITC's, these have arisen from the filing of an amended 2008 tax return at the end of July 2009. The ITC pertains to a federal tax credit for SR&ED of $23,325 and for the apprenticeship credit of $10,000. The Canadian Income Tax Act considers this as government assistance and these amounts are required to be included in income when received. The answer to when this amount would be included will depend on when the income tax credits are actually received. At the time of the response, it was assumed that the amended return would not be assessed prior to the end 2009. Burlington submits that the inclusion of $33,325 in 2010 is appropriate.

112. Burlington submits that it will take advantage of any and all tax credits that may become available in the future. It is not appropriate, however, to guess at these in the determination of the 2010 estimate. While Burlington has some additional hires forecasted in the trades areas, it is not possible to determine if these hires will be apprentices or will be fully trained. It is also uncertain to the time of hire within the year, which would also impact the calculation of the tax credits. Burlington submits that based on standard accounting approaches this is reasonable and its forecast is appropriate.

113. Board staff and Energy Probe submit that Burlington should flow through applicable changes in operating and capital costs, and update the PILs allowance to determine the revenue requirement

and rates resulting from the Board's Decision in its draft Rate Order filing. Burlington acknowledges that this is appropriate.

**General Level of Increase**

114. In addition to reviewing the specific items included in the OM&A forecast for 2010, intervenors made some general submissions that related to the total overall level of increase in OM&A spending. Board Staff and VECC did not comment on the overall level of increase to the OM&A forecast, or propose envelope reductions. Energy Probe suggests that the proposed increase to OM&A costs is not appropriate and that a reduction of $600,000 would be appropriate. SEC argues that there is no reason to believe that an OM&A increase that is higher than the average of the past 3 years is required, and it proposes that the increase from 2009 expenditures be limited to 3.66% over 2009 actuals, or $13,956,606.

115. Burlington submits that these envelope adjustments are arbitrary and should be rejected by the Board. Burlington submits that it is inappropriate to apply a general and unjustified decrease when Burlington has provided detailed evidence deriving its proposed budget based on individually justified line items. Burlington submits that the OM&A budget as presented in the Application has been properly justified and should not be treated in this manner.

116. Energy Probe notes Burlington's costs were on average roughly 7.7% above its cohort average costs based on an analysis of the Comparison of Ontario Electricity Distributors Costs (EB-2006-0268). Burlington submits that when comparing to the other LDC's within the comparator group, one needs to take into account the differences that exist within each LDC territory which impacts cost structure. For example, Burlington Hydro's cost structure is largely a function of having a distribution network in place that is comprised of 32 substations. Other LDC's in the comparator group do not have the same distribution system design and structure and therefore may maintain more, less or no substations, all of which will directly affect overall O&M costs. Burlington described these differences in detail in the response to Energy Probe IR#23. Burlington submitted 2010 projected costs for substations (a/c's 5012,5016,5017,5110,5114) of $1,251,000. In Exhibit 3 Tab 2 Schedule 1 page 15, Burlington forecasted 2010 customers of 65,304 (excluding streetlighting) which translates into $19.16 per customer related to costs to maintain substations. These costs alone more than account for the difference between Burlington and its comparator cohort.

## F. COST OF CAPITAL AND RATE OF RETURN

117. Burlington proposed a weighted average cost of capital of 7.52% in Exhibit 5 of its Application, which was prepared for the Application using a deemed capital structure of 56% long term debt, 4% short term debt, and 40% equity to comply with the Report of the Board on Cost of Capital and 2nd Generation Incentive Regulation for Ontario Electricity Distributors dated December 20, 2006 (the "December 2006 Report"). Burlington applied a short-term debt rate of 1.33% (which will be updated based on January 2010 market interest rate information), a long-term debt rate of 7.62% (reflecting the rate on Burlington's promissory note with the City of Burlington), and a return on equity of 8.01% (which will be updated based on January 2010 market interest rate information and in conjunction with the Board's Cost of Capital consultation EB-2009-0084).

118. On December 11, 2009, during the course of this proceeding, the Board issued its revised guideline Cost of Capital methodology in the Report of the Board on the Cost of Capital for Ontario's Regulated Utilities under EB-2009-0084 (the "December 2009 Report"). The December 2009 Report is a guideline, but departures from the methodology in the report are expected to be adequately supported. While the December 2009 Report was issued subsequent to this Application, the report states that the revised guidelines apply to applications for rates effective in 2010 or later and determined through review of Cost of Service applications. Thus the December 2009 Report supplements the guidelines documented in the December 2006 Report and both reports apply to this Application.

119. Board Staff made submissions supporting Burlington's proposals for Cost of Capital. Specifically, Board Staff note at page 19 of its submission that that Burlington's revised proposal complies with the guidelines documented in the December 2009 Report.

120. Intervenors have made various submissions on Burlington's proposed capital structure, specifically in respect of (i) Capital Structure; (ii) the appropriate long-term debt rate; (iii) the appropriate short-term debt rate; and (iv) the allowable return on equity. Burlington's submissions in respect of each of these specific items are discussed in more detail below.

### Capital Structure

121. Energy Probe has proposed a novel argument that the Board should depart from its well established approach to capital structure to effect an increase in the deemed short-term debt component of Burlington's capital structure.

122. At pages 43-47 of its submission Energy Probe suggests that a "mismatch" between the level of deemed short-term debt and Burlington's requested working capital component of its rate base is indicative that the Board is justified in not applying its well established cost of capital policy to Burlington because of the specific circumstances in the Application.

123. Energy Probe relies on the Board's commentary at page 13 of the December 2009 Report, included in response to specific concerns regarding the scope of outcome from the Board's consultation process, as authority for its argument. The relevant portion of the December 2009 Report provides:

> The final "product" of this process, of course, is a Board policy. This was not a hearing process, and it does not - indeed cannot - set rates. The Board's 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. 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).

124. SEC supports Energy Probe's submissions, and as an alternative suggests that the Board make a "partial adjustment" to Burlington's deemed capital structure.

*Burlington Hydro Submissions*

125. Burlington submits that the intervenors have failed to raise circumstances sufficient to justify the Board departing from its well established policy on Cost of Capital. At page 49 of the December 2009 Report, the Board states that (emphasis added):

> **The Board's current policy with regard to capital structure for all regulated utilities continues to be appropriate.** As noted in the Board's draft guidelines, capital structure should be reviewed only when there is a significant change in financial, business or corporate fundamentals.

126. The Board's current policy is articulated in the Board's December 2006 Report, where the Board adopted a single deemed capital structure for all distributors for rate-making purposes - fixing a split of 60% debt, 40% equity for all distributors and including a short-term debt

amount fixed at 4% of rate base. The Board has been rightfully hesitant in past proceedings to depart from its policy on deemed capital structure. The policy is the result of a broad ranging public consultation process and it has created much needed certainty for both distributors and intervenors in the Board's rate setting process.

127. The Board justified its deemed short-term equity amount at page 9 of the December 2006 Report, noting (emphasis added):

> Based on filings of distributors pursuant to the Board's Electricity RRR and in 2006 rate applications, it is clear that many distributors use short-term debt. The actual average for the industry is about 4%. Some distributors use it extensively as a substitute for long-term debt. **This may be advantageous in a period characterized by low inflation and interest rates, but such a practice exposes the distributor – and its customers – to inordinate risk if rates climb**.

128. To take advantage of the low interest rates currently applicable to short-term debt, Energy Probe argues that the Board should abandon its well established policy and increase the short-term debt component of Burlington's capital structure beyond the deemed amount of 4%.

129. The Board has previously considered and rejected as problematic an approach that would use the actual short-term debt of a distributor to determine the appropriate percentage of the distributor's capital structure. Specifically, page 11 of the December 2006 Report states (emphasis added):

> Although using a distributor's actual short term debt component may seem to be a more accurate approach, **it may be problematic**. Short-term debt is optimally used as an interim solution for managing a firm's financing requirements. It may fluctuate, although generally within a limited range. **Using a firm's actual short-term debt component would be administratively challenging given the number of electricity distributors and the associated volume of data that would need to be reported and verified**.

130. Burlington submits that Energy Probe's approach is similarly problematic. Specifically, if the Board accepts Energy Probe's argument the Board will create a tremendous administrative challenge as it opens the floodgates to numerous parties making a wide variety of arguments to change the deemed capital structure based upon a mix of evidence of a distributor's current capitalization rates and other evidence drawn from elsewhere in the rate application which has no direct relationship to the capital structure of the utility. Indeed, Energy Probe does not make reference to Burlington's actual short-term debt to suggest that the deemed rate is inappropriate. Instead, it makes a tremendous leap in logic to imply that the working capital component of

Burlington's rate base is somehow equivalent to what Burlington's actual short-term debt amount should be.

131. Burlington submits that its proposed working capital allowance was prepared strictly for the purposes of contributing to the rate base component of the Application. The working capital allowance has no real correlation to Burlington's actual level of short-term debt nor should it be used as a proxy for the level of short-term debt the Board will use for rate setting purposes. Burlington submits that its proposed capital structure, including the short-term debt component, complies with the December 2009 Report and is appropriate for rate setting purposes.

132. In the alternative, Burlington submits that Energy Probe has erred in suggesting that all working capital should be financed through short-term debt. Burlington submits that this is simply not the case, and that Energy Probe's argument equating working capital to short-term debt is misleading in this regard.

133. At page 10 of the its December 2006 Report, the Board states that (emphasis added):

> 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.

134. It is a well understood principle of corporate finance that firms need both a long-term (or permanent) investment in working capital and a short-term or cyclical one. The permanent working capital investment provides an ongoing positive net working capital position, that is, a level of current assets that exceeds current liabilities. This allows Burlington to operate with a comfortable financial margin and minimizes the risk of being unable to pay its employees, vendors, lenders, or the government (for taxes). To have a continuous positive net working capital, a company must finance part of its working capital on a long-term basis.

135. Beyond this permanent working capital investment, Burlington also needs seasonal or cyclical working capital. Since the demand for power and Burlington's controllable expenses vary over the course of a year, Burlington needs to finance these costs to prepare for their peak sales period and accounts receivable until cash is collected. Burlington acknowledges that cyclical working capital can sometimes be financed by short-term debt since the seasonal build-up of assets to address seasonal demand will be reduced and converted to cash to repay borrowed

funds within a short predictable period. However, Burlington does not accept the suggestion that the cyclical portion of working capital should be used as a proxy for the short-term debt applicable to a utility's capitalization structure.

136. For illustration purposes only, Burlington has conducted a simplified month-by-month analysis of the fixed and variable components of its 2009 working capital requirement and has found that approximately 70% of its monthly working capital needs remain constant over the year while about 30% exhibits a seasonal variation that changes over the course of the year (the seasonal change is primarily due to changes in the cost of power).

137. Burlington submits that, in light of the foregoing, the intervenors have failed to raise circumstances sufficient to justify the Board departing from its well established policy on Cost of Capital.

**Long Term Debt Rate**

138. Burlington has a promissory note with its shareholder, the City of Burlington, in an amount of just under $48 million. Burlington has no other long term debt at the time of the filing. A copy of this note was filed at Exhibit 5/Tab 2/ Schedule 1. Since the promissory note is with an affiliate and is callable, Burlington requested a return on Long Term Debt for the 2010 Test Year of 7.62% in accordance with the December 2006 Report.

139. Energy Probe and VECC submit that in light of the fact that the promissory note is callable within the test year, that the appropriate rate should be calculated as per the methodology set out in the December 2009 Report.

140. Burlington acknowledges that the December 2009 Report provides at page 54 that:

> For debt that is callable on demand (within the test year period), the deemed long-term debt rate will be a ceiling on the rate allowed for that debt. Debt that is callable, but not within the period to the end of the test year, will have its debt cost considered as if it is not callable; that is the debt cost will be treated in accordance with other guidelines pertaining to actual, affiliated or variable-rate debt."

141. Since Burlington's note is callable on demand, Burlington acknowledges that it will use an interest rate equal to the actual rate on the promissory note of 7.25% unless the Board's deemed long-term rate is lower that this level. Burlington notes that the interest rate is fixed at 7.25% and that Energy Probe is greatly mistaken when it suggests this rate is variable. Finally,

Burlington submits that there is no basis in evidence to accept VECC's proposal of a weighted average of Burlington's existing long-term debt and an infrastructure Ontario rate that does not relate to Burlington's actual debt. Burlington submits that evidence related to the infrastructure Ontario loan is related strictly to smart meters - the loan should properly be considered in the determination of the smart meter adder separate from the standard distribution business and rates at this time.

**Short Term Debt Rate**

142. SEC, VECC and Board Staff made no submissions in respect of the short term debt rate. Energy Probe submits that the short term debt rate should be updated as per the methodology outlined in Appendix D of the Board's December 2009 Report. Burlington agrees.

**Allowed Return on Equity**

143. Because of the December 2009 Report and in response to SEC Supplemental IR#23, Burlington updated its proposal to account for changes to the return on equity reflected in the December 2009 Report, increasing the ROE to 9.75% resulting in an updated requested weighted average cost of capital of 8.22%. Burlington's updated proposal remains subject to further updates based on January 2010 market interest rate information.

144. Energy Probe suggests that Burlington should not qualify for the 9.75% ROE figure on the basis that the 50 basis point transactional costs are not appropriate for Burlington. Burlington submits that Energy Probe is recommending a dramatic departure from Board's policy in respect of ROE. Notably, that the premium for flotation and transaction costs have be included ever since the Board first introduced the premium in the early 1990s. The Board has never before asked distributors to produce evidence of its flotation and transaction costs to support recovery the allowable ROE. Burlington submits that Energy Probe's approach creates an entirely new and unexpected burden of proof that would open the floodgates to numerous arguments about all aspects of the allowable ROE – requiring utilities to hire costly consultants to justify a proposed ROE and subjecting the Board to lengthy administratively cumbersome proceedings on disputed ROE allowances. Burlington submits that the Board should reject Energy Probe's approach and affirm Burlington's use of a 9.75% ROE pursuant to the December 2009 Report.

**G. COST ALLOCATION**

**Overview**

145. Burlington is requesting approval of distribution rates that would move its revenue to cost ratios toward one based on the Board's policy range. For the purposes of this Application, Burlington Hydro has updated the informational cost allocation study filed on January 15, 2007 that was prepared consistent with Burlington Hydro's understanding of the Cost Allocation Information Filing Guidelines for Electricity Distributors and associated directions. This model has been updated to reflect 2010 test year costs, customer numbers and demand values. The 2010 demand values are based on the weather normalized load forecast used to design rates. As was the case with the original filing, one of the main objectives of the filing was to provide information on any apparent cross-subsidization among a distributor's rate classifications.

146. The calculated cost revenue ratios are summarized in the table below.[42]

| Revenue to Cost Ratio (%) | | | | | |
|---|---|---|---|---|---|
| **Customer Class** | **(1) From Cost Allocation Model** | **(2) Column 1 Revised (Transformer Ownership Allowance)** | **(3) Updated Cost Allocation Model** | **(4) Proposed for Test Year** | **Board Target Range** |
| Residential | 100.66% | 102.97% | 109.19% | 107.10% | 85-115 |
| GS<50 kW | 107.64% | 110.22% | 110.72% | 107.03% | 80-123 |
| GS>50 kW | 99.16% | 92.95% | 80.26% | 85.00% | 80-180 |
| Street Lights | 14.97% | 15.39% | 15.07% | 42.54% | 70-120 |
| USL | 84.86% | 87.11% | 103.60% | 103.60% | 80-120 |

147. Board staff and intervenors made submissions on the following items: (i) Cost Ratio for General Service > 50kW; and (ii) Cost Ratio for Street Lighting. These specific items are discussed in more detail below.

**Revenue-to-Cost Ratio for General Service > 50 kW**

148. Burlington intends on re-aligning the General Service > 50 kW class as its cost to revenue ratio has shifted further away from the target of one, and is very close to the lower threshold identified by the Board. Burlington proposes to increase the General Service > 50 kW class from 80.30% to 85%, which is approximately half way between current levels and the level at the original cost allocation filing, with the transformer allowance credit removed. Burlington stated that any additional revenue from the under contributing classes will be distributed to the

[42] See Exhibit 7, Tab 3, Schedule 1, Page 1.

Residential and General Service < 50 kW rate classes as the revenue to cost ratio for these classes both increased from the original cost allocation filing.

149. Board staff notes that intervenors asked interrogatories about Burlington's decision to shift its revenue-to-cost ratio for the GS > 50 kW class from 80.26% to 85.00%. In its response to such interrogatories, Burlington stated that the 2010 updated cost allocation model resulted in a cost to revenue ratio significantly lower than the earlier calculation, and moving away from an ultimate target of 100%. Burlington has requested a cost ratio of 85.00%, approximately half way between the current and past calculations, to attempt to keep this group closer to the 100% target.

*Submissions of Board Staff and Intervenors*

150. Board staff submits that the adjustment to the Informational Filing model to report cost and revenues net of the Transformer Ownership Allowance removes an inconsistency that affected the ratios in the original model. Board staff submits that the proposed ratios are all (with the exception of street lighting) within the range of ratios outlined in the Report of the Board: Application of Cost Allocation for Electricity Distributors, EB2007-0667, issued November 28, 2007.

151. Energy Probe and VECC do not support the increase proposed for the General Service > 50kW rate class as the revenue to cost ratio is already within the Board approved range.

152. SEC agrees with the submissions of Energy Probe and VECC. SEC does note that generally cost ratios should move towards unity, even if within the OEB range.

*Burlington Hydro Submissions*

153. In the review of the revenue cost ratios, Burlington recognized that while the Board had established ranges to target for cost allocation purposes, it had also stated, at page 7 of the Cost Allocation Report for Electricity Distributors dated November 27, 2007, the following:

> "The Board expects to address these concerns as and when they arise in the context of individual rate applications. Distributors should endeavour to move their revenue-to-cost ratios closer to one if this is supported by improved cost allocations. However, if a large increase is required to move closer to one, rate mitigation plans should be proposed by the distributor. Distributors should not move their revenue-to-cost ratios further away from one."

154. The calculations for the General Service > 50 kW rate class moved the revenue cost ratio from a level of 99.16% in the original Cost Allocation submission to 92.95% in the Cost Allocation removing transformer allowance to a level of 80.26% using the 2010 data. Burlington felt that this change was in contradiction to the message in the Cost Allocation report. As a result, given no large customer impacts, Burlington has requested a cost ratio of 85.00%, approximately half way between the current and past calculations, to attempt to keep this group closer to the 100% target. Burlington submits that its approach to cost allocation is in accordance with the Board's November 27, 2007 Cost Allocation Report and should be accepted by the Board.

**Revenue-to-Cost Ratio for Street Lighting**

155. Burlington's application involves a re-balancing of class revenues to better reflect the results of the cost allocation model. The re-alignment will move the street light class to halfway between its current ratio and the target ratio. The current revenue to cost ratio for street lights is 15.07% moving the ratio to 42.54%.

*Submissions of Board Staff and Intervenors*

156. Board staff submits that the proposed ratio for street lighting is outside of the range of ratios outlined in the Report of the Board: Application of Cost Allocation for Electricity Distributors, EB2007-0667, issued November 28, 2007.

157. Energy Probe and VECC support the Burlington proposal to increase the ratio for the streetlighting class to 42.54% for 2010. Energy Probe agrees, and further submits that the Board should direct Burlington to move the street lighting revenue to cost ratio to the bottom of the Board approved range of 70% over the following two years.

158. SEC made no specific comments on the streetlighting ratio.

*Burlington Hydro Submissions*

159. Burlington acknowledges that the cost ratio for the streetlighting class is significantly below the range of cost ratios outlined in the Board Report. To reduce the impact of realignment of this ratio, Burlington has proposed to move halfway to the bottom of the range. Burlington is not recommending further changes until the next full rebasing application, at which time the cost allocation study will be updated with more current data.

## H. RATE DESIGN

160. As described earlier in this document, Burlington Hydro has determined its total 2010 service revenue requirement to be $32,410,162. The proposed rates are set to recover a revenue deficiency of $4,172,323, effective May 1, 2010.

161. In calculating the proposed rates, and as described in the evidence at Exhibit 8, Tab 2, Burlington has relied on the various documents provided from the OEB on various rate design matters, including "Chapter 2 of the Filing Requirements for Transmission and Distribution Applications", dated May 27, 2009, the November 28, 2007 "Report on Application of Cost Allocation for Electricity Distributors", and the September 29, 2006 report of the OEB entitled "Cost Allocation: Board Directions on Cost Allocation Methodology for Electricity Distributors". Burlington submits that it has interpreted these documents appropriately and has determined rates for its customers that are a balancing of customers interests and sound ratemaking principles.

162. Burlington has five rate classes, comprising of Residential, GS < 50 kW, GS > 50 kW, Unmetered Scattered Load, and Street Lighting. It is not proposing any changes to the structure of its existing rate classes. The following table, as provided in the response to Board Staff Supplemental IR#8, outlines the proposed schedule of rates and charges.[43]

[43] See response to Board Staff Supplemental IR #8, page 3.

**RATES SCHEDULE (Part 1)**

*Schedule of Distribution Rates and Charges*

*Effective May 1, 2010*

| Customer Class | Item Description | Unit | Rate ($) |
|---|---|---|---|
| **Residential** | | | |
| | Monthly Service Charge | per month | 13.89 |
| | Distribution Volumetric Rate | per kWh | 0.0168 |
| | LRAM and SSM Rate Rider | per kWh | 0.0004 |
| | Smart Meter Rate Rider | per month | 1.0000 |
| | Regulatory Assets Rate Rider | per kWh | (0.0006) |
| **GS < 50 kW** | | | |
| | Monthly Service Charge | per month | 26.51 |
| | Distribution Volumetric Rate | per kWh | 0.0152 |
| | LRAM and SSM Rate Rider | per kWh | 0.0001 |
| | Smart Meter Rate Rider | per month | 1.0000 |
| | Regulatory Assets Rate Rider | per kWh | (0.0006) |
| **GS >50** | | | |
| | Monthly Service Charge | per month | 76.89 |
| | Distribution Volumetric Rate | per kW | 3.1131 |
| | LRAM and SSM Rate Rider | per kW | 0.0124 |
| | Smart Meter Rate Rider | per month | 1.0000 |
| | Regulatory Assets Rate Rider | per kW | (0.2030) |
| **Street Lighting** | | | |
| | Monthly Service Charge | per month | 0.37 |
| | Distribution Volumetric Rate | per kW | 2.6944 |
| | Regulatory Assets Rate Rider | per kW | (0.0891) |
| **USL** | | | |
| | Monthly Service Charge | per month | 10.24 |
| | Distribution Volumetric Rate | per kWh | 0.0200 |
| | LRAM and SSM Rate Rider | per kWh | 0.0000 |
| | Regulatory Assets Rate Rider | per kWh | (0.0899) |

163. Board staff and intervenors made submissions on the following items: (i) Monthly Fixed Charge; (ii) Retail Transmission Service Rates; (iii) Loss Adjustment Factors; and (iv) LRAM and SSM. These specific items are discussed in more detail below.

**Monthly Fixed Charges**

164. The monthly fixed charge ("MFC") based on the current Burlington fixed/variable revenue proportions results in MFC charges that are both below and above the MFC ceiling. For consistency purposes, Burlington is proposing to set all MFC rates at the ceiling amount, with the exception of the Street Lighting class, which will be increased to the level resulting in the same fixed/variable split as calculated from the current fixed/variable revenue proportions for this class.

165. Board staff observes that the bill impacts calculated by Burlington are, in most classes, larger percentages for the smallest customers in the class and lower percentages for the largest customers. It appears that this is a result of the Smart Meter adder increasing the effective fixed charge, in combination with the proposed rebate on deferral and variance accounts decreasing the effective volumetric charge. Board staff acknowledge that Burlington's proposal is reasonable in terms of the fixed/variable proportions of revenues, and is consistent with Board policy as articulated in the Board's Cost Allocation report and in previous decisions.

166. VECC submits that a more structured approach to determination of the fixed/variable split is required. The proposed approach would be that subject to bill impact considerations, if the service charge resulting from the use of the existing fixed/variable split is within the range established by the Board's Report, then the distributor should be required to maintain the existing split. The floor/ceiling should only be used when the results are outside of the Board's guidelines. SEC adopts the submissions of VECC on this issue. Energy Probe made no comments on this matter.

167. Burlington submits that the proposed levels of the fixed monthly charges does provide a structured approach to the treatment of the charges and should be accepted by the Board. Given that the calculated values result in fixed charges that would be both below and above the MFC ceiling, the proposed movement to the ceiling level does provide some consistency in treatment, and has not resulted in any rate impact issues.

**Retail Transmission Service Rates ("RTSR")**

168. Burlington is proposing to increase its 2010 Retail Transmission Network Service Rates by 3.5% and to decrease its Retail Line and Transformation Connection Service Rates by 2.2%, in accordance with the changes to the Uniform Transmission Rates in the EB-2008-0272 Board Decision and Rate Order.

169. Board staff acknowledge that the proposed changes to RTSRs are consistent with the Board's "Revision to Guideline G-2008-0001 – Electricity Distribution Retail Transmission Service Rates". This guideline outlined required information to adjust retail transmission service rates to reflect changes in the Ontario Uniform Transmission Rates ("UTRs"). Burlington submitted two years of actual data regarding the variance accounts related to RTSRs and did not find that there

was an ongoing trend in the growth of the balances. Energy Probe and SEC did not make any comments on this issue. VECC had no submissions on Burlington's proposal.

170. Burlington submits that the proposed changes are in accordance with the Board's direction on this matter and should be approved by the Board. In examination of the monthly variance account balances from January 2007 through June 2009, as provided at Exhibit 8, Tab 3, Schedule 1 of the evidence, there have been no specific trends determined that would indicate that anything other than the percentage change would be warranted. Burlington therefore submits that these rates are appropriate.

**Loss Factors**

171. Burlington has proposed a small decrease to its total loss factor ("TLF") from the current approved 4.29% to 4.05% for secondary metered customers < 5000 kW. A similar decrease of 0.23% is also proposed for other customers.

172. Burlington provided historical data for its Distribution Loss Factors ("DLF") and Supply Facilities Loss Factor ("SFLF") from 2004 to 2008 at Exhibit 8, Tab 5, Schedule 1 of the evidence. The DLF and SFLF are multiplied together to yield the TLF.

173. Board staff has no concerns with the provision made for the test year TLF. Energy Probe submits that the total loss factor as estimated for 2010 is appropriate. SEC and VECC submit that the purchase of the Palermo feeder in 2007 should impact the losses, and reduce the system losses going forward. They submit that in this case the three year average of 1.0338 is a more predictive calculation for the test year and beyond.

174. Burlington submits that it had considered and reviewed the impact of the purchase of the Palermo feeder on the loss factor calculation. It was felt that Burlington has not had sufficient time to fully understand the impact of this purchase. Further, there are additional system impacts such as smart metering and connection of renewables that may or may not impact the system losses. It was felt that given that the five year forecast still reduces the loss factor, it was most appropriate at this time to continue with the five year average and proposed 1.0405.

**I. LRAM/SSM**

175. In its original application Burlington sought LRAM and SSM recovery of $889,218 ($724,398 for LRAM and $164,820 for SSM), to be recovered over four years. Burlington hired a reputable independent third-party reviewer of LRAM and SSM costs – the results of that review are provided in Exhibit 8/ Tab 6/ Schedule 1.

176. Following the Board's Decision with respect to Horizon Utilities' application for LRAM and SSM recovery (Board file number EB-2009-0192), and in light of interrogatories posed by Board staff and intervenors, Burlington filed updated evidence on November 20, 2009 and December 21, 2009. In response to an interrogatory, Burlington stated that distribution system improvements should be removed from its CDM portfolio and in turn, excluded from its SSM calculation. The effect of removing the distribution system improvements increased the SSM claim. As well, Burlington made adjustments to its LRAM claim to include the most up to date input assumptions. Burlington's updated LRAM/SSM claim is $926,628 ($705,345 for LRAM and $221,283 for SSM), to be recovered over four years. Burlington's revised LRAM/SSM claim is summarized in the table below.

| Rate class | LRAM | SSM | Total |
|---|---|---|---|
| Residential | $567,125 | $166,045 | $733,170 |
| GS < 50 kW | $72,485 | $4,450 | $76,935 |
| GS > 50 kW | $65,735 | $50,823 | $116,558 |
| Unmetered Scattered Load | $0 | -$36 | $-36 |
| **TOTAL** | $705,345 | $221,283 | $926,628 |

*Submissions of Board Staff and Intervenors*

177. Board staff notes that Burlington has submitted a third party review conducted by IndEco Strategic Consulting Inc. As well, Board staff submits that Burlington has complied with all filing requirements and takes no issue with Burlington's proposed LRAM/SSM claim.

178. VECC has made extensive submissions expressing various concern it has about Burlington's LRAM/SSM claim. In general, VECC's concerns center on Burlington's use of alternative

values to support its LRAM/SSM claim instead of generic benchmark values. VECC goes so far as to suggest that the Board should reject any LRAM claims, including Burlington's, for other than OPA Programs that are not based on the standard benchmarks (para. 12.40). Based on this concern, VECC then suggests that numerous adjustments are required to Burlington's LRAM/SSM claim, for example VECC suggests that the gross kWh for all 3rd tranche CFL handouts should be reduced by 1/4 (para. 12.33).

179. VECC accepted many components of the claim, including the SSM claim (VECC argument 12.4) and the LRAM related to OPA programs (12.3). VECC took issue with some of the input assumptions for non-lighting mass market measures, but determined that the differences from their preferred assumptions were not material (12.34, 12.36).

180. Energy Probe supports the submissions from VECC on this matter.

*Burlington Hydro Submissions*

181. Burlington submits that it is important that the Board encourage LDCs to evaluate programs and to identify the energy savings and other benefits that they create, and to compare these to the costs incurred. This information has a number of uses, including identifying which programs should be continued or expanded and which programs should be terminated or modified, assisting in improving the design and delivery of programs, and demonstrating to customers the value of conservation and demand management programs. The assessment is also important in supporting province-wide initiatives to promote the culture of conservation, and meeting provincial objectives for reducing the demand for electricity.

182. Burlington considers itself fortunate to be able to draw upon a number of information sources that help deal with at least some of the uncertainties inherent in estimating the impact of CDM programs through consolidated review of the literature, or third-party impact evaluations of (in particular) OPA programs. These sources are supplemented by direct data collection by Burlington on various parameters, such as manufacturer specifications of technologies being deployed, customer surveys and field observation, and direct measurement.

183. An important information source that consolidates information from the literature on energy savings and usage patterns is the Measures and Assumptions List published by the Ontario Power Authority (OPA), with regular updates. These replace the lists in the Board's earlier *TRC*

*Guide*. This list reviews studies on energy savings measures from numerous jurisdictions. Often the literature shows a range of values for any particular parameter, reflecting a range of factors probably including geographic location, the year in which the investigation was undertaken, calculation methodologies and others. The OPA List often provides not just the values or range of values from the literature, but also an assessment of what a 'typical' value might be for evaluating Ontario deployment, or methodologies for calculating savings based on a mix of technical factors (such as wattage rating) and behavioural or usage factors (such as hours of use).

184. The Board has recognized the value of these lists, and in its letter of January 27, 2009 'endorsed' the OPA list. In both that letter and in the *Guidelines for Electricity Distributor Conservation and Demand Management* (EB-2008-0037, March 28, 2008) the Board recognized that the lists developed by the OPA, or earlier by the Board itself, will not always be complete or adequate, and made provision for LDCs to provide additional or alternate values, where appropriate, and subject to providing appropriate supporting information. Burlington submits that VECC's submissions expressly ignore the Board's articulated policy in this regard. Burlington further submits that the evidence before the Board provides appropriate supporting information for Burlington's use alternative values. This evidence is summarized further in the submissions below.

185. Burlington drew on the OPA list for estimating the energy savings of many of its programs, in particular its Public Education and Outreach program, which distributed CFLs to customers. In addition, free-rider estimates from the February 15, 2008 version of the list were adopted for many of the programs, as the newer list (November 2008) does not provide default free-rider estimates.[44]

186. In addition to the OPA's Measures and Assumptions List, the OPA has also provided independent third-party impact evaluations of its own programs delivered between 2006 and 2008, and has allocated estimating savings to individual LDCs, including Burlington. The OPA provided these to Burlington on November 10, 2009. These evaluations look at the specific programs delivered by the OPA, and their implementation in Ontario. The OPA identifies these

[44] In the 2009 version of OPA's Measures and Assumptions lists, free ridership and other adjustment factors are not provided and program specific evaluations are recommended, though it is acknowledged that broad adjustment factor assumptions may be used planning or portfolio management activities in the absence of better information. Earlier versions of the list (e.g. Feb 2008) provided broad estimates of free ridership rates.

evaluations as 'final' and says they are "in accordance with current OPA practices and policies for reporting progress against the provincial conservation goals". In its *Guidelines*, the Board states "The Board would consider an evaluation by the OPA or a third party designated by the OPA to be sufficient" (p.28).

187. For programs where Burlington had direct interaction with the customer, such as the lighting programs for municipal buildings, and general service customers, and multi-unit residential buildings, BHI's lighting contractor, a specialist in lighting design and installation with a focus on customers in Halton Region who has been working with Burlington Hydro on lighting related CDM programs since 2005, was able to identify the specific technologies currently being used, and recommended replacement technologies and usage patterns. The lighting contractor was able to do this because he did a site visit in each of the buildings in the programs referred to, interviewed users and analysed the existing lighting technologies and lighting usage.

188. Identifying specific usage patterns is particularly important in the case of lighting programs. In general, the manufacturer specifies energy demand of particular lighting technologies, and the key parameter that varies by use is the number of hours the lighting is used. The number of hours will vary from customer to customer, depending (in the case of C&I customers) on such factors as: hours of operation, the particular tasks being performed under the particular lighting fixture, the availability of natural light, and the ability to control individual fixtures. Burlington Hydro's lighting expert estimated the usage patterns by consultation with the customer, and by observation of the specific location where the more energy efficient lighting fixture was to be installed. These estimates are of greater accuracy than values in the literature, which are typically based on averages of the same kinds of estimates for a sample of buildings. For example, the OPA's *2009 Commercial and Institutional Measures and Assumptions* (p.18) provides an estimate of the hours of use of lighting in MURB Corridors/Lobby of 5100 h/a (or 14 h/d), which comes from a 2005 Pacific Gas & Electric Workpaper. In contrast, in its MURB program, BHI's lighting contractor was able to look at the *particular* circumstance of the specific Ontario building in 2007, and see, for example, whether the corridor had windows or other natural sources of light, and would therefore only need artificial light for the 14 h/d observed in California, or whether those lights would be on 24 h/d (8760 h/a). Similarly, the Halton Region Police Services building, though nominally an office building, operates 24 h/d, not 16 h/d. For some specific fixtures, the lighting consultant identified that those fixtures were used for fewer hours than shown in the California average use table, and those lower values

were used in BHI's analysis. BHI's third-party reviewer examined these data collection worksheets for completeness and reasonableness.

189. VECC requested that the Board instruct Burlington Hydro to make a number of adjustments to its LRAM calculation, including:

(a) adopting free-ridership values found by the OPA in its impact evaluations for similar programs/measures during the same year (12.47);

(b) adjusting the LRAM calculated for multi-residential buildings to be consistent with the OPA Measures and Assumptions list (12.55); and

(c) substituting the savings in the OPA Measures and Assumptions list for CFLs for the values used by BHI for third-tranche residential programs where 4000 operating hours per year were assumed (12.32, 12.33).

190. The free rider rates found by the OPA by measure are presented in their reported results for 2006-2008.[45] The program most comparable to the CFL give away program is the Project Porchlight program, for which OPA estimated a free-rider rate of 24%, but for which BHI adopted a free rider rate of 30%. BHI's GS lighting program is most similar to lighting measures under the ERIP program, but OPA did not provide a free ridership estimate for these measures under this program. BHI adopted a rate of 30%; BHI considers this a conservative estimate.

191. BHI's multi-residential building program was a lighting program. As discussed above, and as acknowledged by VECC in its argument, the key area of controversy for lighting programs (besides free rider rates) is hours of use. The OPA C&I Measures and Assumptions list provides annual operating hours of selected buildings based on a 2005 California study. As already discussed, BHI's hours of use are based on site-specific assessments by a lighting expert of the context and usage patterns of lighting. Because the estimates are made by a lighting expert analysing the specific circumstances in each building on-site, the site-specific assessments of the lighting expert are more accurate than the 2005 California estimates contained in the OPA C&I Measures and Assumptions List, and therefore, the Board should find the lighting expert's site specific assumptions to be the more reasonable assumptions and more appropriate for use.

[45] These results, presented in a spreadsheet, were filed in response to VECC interrogatory 49 as Burlington_IRR_VECC_q49_20091221.xls

192. To assist the Board in determining the impact of VECC's proposals, BHI has calculated what the LRAM would be in the event that the following changes requested by VECC were to be made:

(a) energy savings for give-away bulbs under the 2007 Earth Day bulb exchange at City Hall that was part of the Municipal Building Retrofit Program, the 2007 public education and outreach program and the BHI employee bulb exchange component of the Staff Development Program are reduced to 43 kWh/a per bulb

(b) the free-rider rate for programs that were residential CFL give-away or exchange programs is reduced from 30% to 24%.

193. For consistency, Burlington would also increase life-times for CFLs to be based on 9000 h of use as outlined in the 2009 Measures and Assumptions List (affecting the home developers program), and would remove the inadvertent double counting of free riders in the 2005 Public Education and Outreach program (which increases LRAM by $5800). The net result is an *increase* of $1000 in the total LRAM claim. As such it is in the interests of ratepayers to maintain Burlington Hydro's current claim, and Burlington submits that the claim, as outlined in Table above, be approved. Burlington Hydro has delivered a portfolio of Conservation and Demand Management (CDM) programs that have led to net benefits for its customers, but that have led to a loss in revenue to Burlington Hydro. Burlington Hydro requests that the Board approve its request for LRAM/SSM recovery as noted above.

## J. DEFERRAL AND VARIANCE ACCOUNTS

### Overview

194. Burlington provided the account balances representing principal balances to December 31, 2008 and projected interest to April 30, 2010 in its Application. It also submitted its Audited Financial Statements as of December 31, 2008. The balances proposed for disposition were updated based on the Board's Regulatory Audit and Accounting bulletin regarding Account 1588 RSVA Power and Account 1588 Power Sub-account Global Adjustment. Based on Board Staff

interrogatory #26, Burlington updated its claim from ($3,566,271) to ($3,598,389). The table below provides a summary of the accounts that Burlington is requesting to dispose of.[46]

**Variance Accounts & Balances - Dec 31, 2008 plus interest to April 30, 2010 For Clearance**

| Account Description | Account Number | Closing Principal Balance as at December 31, 2008, plus interest to April 30, 2010 |
|---|---|---|
| RSVA - Wholesale Market Service Charge | 1580 | $ (3,999,762) |
| RSVA - One-time Wholesale Market Service | 1582 | $ 290,500 |
| RSVA - Retail Transmission Network Charge | 1584 | $ (931,864) |
| RSVA - Retail Transmission Connection Charge | 1586 | $ (232,984) |
| RSVA - Power (excluding Global Adjustment) | 1588 | $ 196,956 |
| RSVA - Power (Global Adjustment) | 1588 | $ 1,076,240 |
| ***subtotal RSVA*** | | ***$ (3,600,914)*** |
| Other Regulatory Assets | 1508 | $ 860,706 |
| Retail Cost Variance Account - Retail | 1518 | $ (50,608) |
| Retail Cost Variance Account - STR | 1548 | $ (7,342) |
| Misc. Deferred Debits | 1525 | $ 13,174 |
| LV Variance Account | 1550 | $ (199,941) |
| Conservation and Demand Management Expenditures and Recoveries | 1565 | $ 7,971 |
| CDM Contra | 1566 | $ (7,971) |
| Recovery of Regulatory Asset Balances | 1590 | $ (613,465) |
| ***subtotal non-RSVA*** | | ***$ 2,525*** |
| **TOTAL** | | **$ (3,598,389)** |

195. The following items are specifically addressed below:

(a) Disposition of Balances

(b) Account 1588 – Global Adjustment Sub-Account

(c) Harmonized Sales Tax

(d) Smart Meters

**Disposition of Balances**

196. Burlington has proposed to dispose of the balances over a 4 year period. The table below, from Board Staff interrogatory #26, provides the proposed rates for recovery of the balances outlined above.[47]

[46] This table is a summary of information provided at the response to Board Staff interrogatory #26.

[47] The table below is from the response to Board Staff IR#26.

| Customer Class | RSVA Accounts | | non-RSVA Accounts | | Total | |
|---|---|---|---|---|---|---|
| | per kWh | per kW | per kWh | per kW | per kWh | per kW |
| Residential | (0.0007) | | 0.0001 | | (0.0006) | |
| General Service <50 kW | (0.0007) | | 0.0000 | | (0.0006) | |
| General Service >50 kW | | (0.1777) | | (0.0252) | | (0.2030) |
| Street Lighting | | 0.0001 | | (0.0892) | | (0.0891) |
| Unmetered Scattered Load | (0.0006) | | (0.0892) | | (0.0899) | |

*Submissions of Board Staff and Intervenors*

197. Board staff notes that the updated balances proposed are consistent with Burlington's RRR filings. Board Staff also notes that Burlington's methodology for the proposed disposition of its deferral and variance accounts is consistent with similar disposition of such costs as determined by the Board in recent decisions of other distribution rate applications.

198. Energy Probe submits that the accounts and the proposed amounts to be cleared are appropriate. Energy Probe also accepts the allocation and calculation of the rate riders. Energy Probe further accepts the proposed recovery period.

199. SEC had no submissions on this matter.

200. VECC noted that Burlington's proposals for clearing its variance accounts is consistent with EB-2008-0046 Report and had no further submissions on this matter.

*Burlington Hydro Submissions*

201. Burlington submits that the proposed account clearance follows the direction of the Report of the Board on Electricity Distributors' Deferral and Variance Account Review Initiative (EDDVAR), issued July 31, 2009, and is appropriate.

**Account 1588 – Global Adjustment sub-account**

202. Burlington has appropriately used the kWh for non-RPP customers as the allocator for the Global Adjustment sub-account of account 1588. In response to Board staff supplemental IR # 7, Burlington provided calculations of the rate riders to dispose of the deferral and variance account balances, excluding the Global Adjustment sub-account, and separate rate riders to dispose of the Global Adjustment sub-account balance. Burlington used 2010 non-RPP customer consumption as the billing determinant. Burlington proposes that the Global Adjustment sub-account be applied to all non-RPP customers, including any customers previously designated as MUSH (Municipalities, Universities, Schools and Hospitals).

Burlington notes that the majority of its MUSH customers have been with energy retailers over the past few years and have not been impacted by the November 2009 change in eligibility.

*Submissions of Board Staff and Intervenors*

203. With respect to the disposition of the Global Adjustment sub-account of account 1588, Board staff is of the view that the Board should adopt Burlington's evidence provided in response to Board staff supplemental IR #7 and establish a separate rate rider for recovery of this account balance. Board staff agrees with Burlington's responses on the applicability and practicality of including MUSH sector customers from any specific Global Adjustment sub-account rate rider.

204. Energy Probe submits that the Board should adopt the separate rate rider for recovery of the Global Adjustment sub-account.

205. SEC and VECC made no comment on this issue.

*Burlington Hydro Submissions*

206. The addition of separate rate rider for recovery of the Global Adjustment is technically possible within the current billing system utilized at Burlington Hydro. Burlington submits that while this is possible, there will be additional levels of update, tracking, accounting and administration related to the establishment of another rate rider. Burlington is also aware of customer confusion related to the application of various rate riders and has some level of concern with applying multiple rate riders applicable to customer bills.

**Harmonized Sales Tax**

207. Staff notes that the provincial sales tax ("PST") and goods and services tax ("GST") will be harmonized effective July 1, 2010 pursuant to Bill 218 which received Royal Assent on December 15, 2009. Unlike the GST, the PST is currently included as an OM&A expense and is also included in capital expenditures. When the GST and PST are harmonized, corporations will realize a reduction in OM&A expenses and capital expenditures that has not been reflected in the current application for 2010 rates.

208. In response to an interrogatory, Burlington stated that it has not made any adjustments to its 2010 OM&A and capital expenditure forecasts to reflect the elimination of the 8% PST costs

starting on July 1, 2010. Burlington has addressed proposed changes to the capital and OM&A budgets in earlier sections.

*Submissions of Board Staff and Intervenors*

209. Staff submits that the amounts associated with PST costs noted above suggest that the potential savings could be significant. Accordingly, the Board may wish to consider establishing a variance account to track any savings that may arise. Board Staff notes that in response to a Board staff interrogatory, Burlington agreed to the establishment of a variance account to track any savings that may arise.

210. Energy Probe submits that the establishment of a variance account to track the differences between any expenses incurred for which PST would have been paid and for which the distributor is now eligible for HST input tax credit and the expenditure reductions forecasted by Burlington would be appropriate.

211. SEC and VECC did not address this issue.

*Burlington Hydro Submissions*

212. As noted in the response to Board Staff Supplemental interrogatory #1, Burlington has concerns regarding the establishment of a variance account and tracking of these costs. Energy Probe and VECC have submitted that the capital and OM&A cost forecasts should be reduced in accordance with the data provided, as well as a variance account be established. Burlington has further concerns with this approach as this may introduce additional administrative burden to determine what costs have been reduced through the change in forecast, and what costs need to be tracked via a variance account. Burlington submits that should the Board find it appropriate to address this issue in the decision, the cost forecasts should be reduced by values provided at Energy Probe interrogatory #1.

**Smart Meters**

213. As described in the evidence at Tab 9, Schedule 3, Burlington is proposing to continue using the current approved smart meter adder of $1.00 per meter per month for 2010 rates. Once smart meters are fully deployed, Burlington will come forward with a smart meter rate rider

application to dispose of the smart meter deferral and variance accounts and collect the cost of the smart meters as if they were in the rate base.

*Submissions from Board Staff and Intervenors*

214. Energy Probe does not oppose Burlington's proposal to continue with the existing smart meter adder of $1.00 per meter per month for 2010 rates. Energy Probe does submit that Burlington should include costs associated with the $15 million loan in the smart meter deferral and variance accounts.

215. The other parties did not comment on this issue.

*Burlington Hydro Submissions*

216. As indicated in the response to Energy Probe interrogatory #46, Burlington will include costs associated with the smart meter financing in the Smart Meter variance account 1555. Burlington made this adjustment to the Revenue Requirement Workforms filed in response to Board Staff Supplemental interrogatory #8.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 2ND DAY OF FEBRUARY, 2010.**

*Original Signed by John. A.D. Vellone*

John A.D. Vellone

Counsel to Burlington Hydro Inc.