Halton Hills Hydro Inc.
Board Staff Interrogatories
Re: Procedural Order No. 7
February 26, 2010
Deferred PILs Combined Proceeding
EB-2008-0381

Halton Hills Hydro Inc. (HH)

HH1. **Re: Issue #2:** What is the adjusted balance of deferred PILs in account 1562 that HH is now requesting for disposition as at February 28, 2010?

HH2. Please provide the PILs continuity schedule that supports this amount.

HH3. HH has submitted SIMPIL models and other schedules in evidence. Please identify which set of models supports the amount requested in interrogatory HH1 above. If HH now has a new set of models other than those already filed that support this requested amount, please file the active Excel versions in evidence.

HH4. **Re: Issue #1**: Should the stand-alone principle be applied when determining the allocation of the following tax attributes for federal and Ontario tax purposes: business limits; capital thresholds and deductions (exemptions); and eligibility for the small business deduction? That is, should the regulated distributor (licensed utility) use 100% of the tax attributes when calculating the regulatory PILs and SIMPIL true-up entitlements?

Please explain with reference to HH's PILs tax evidence.

HH5. **Re: Issue #3:** Has the utility correctly applied the true-up variance concepts established by the Board's guidance?

a) How important is the sequence of the Board's guidance in determining how and when to apply that guidance in this proceeding? Please elaborate.

b) Does Halton Hills believe that there is a regulatory hierarchy in the Board's various decisions, handbooks, FAQs, guidelines and instructions? Please elaborate.

HH6. **Re: Issue #3:** One Example: Ontario Capital Tax (OCT) and Large Corporation Tax (LCT) were meant to be trued up if there was a capital tax rate or threshold deduction change after the Board's decision and during the intervening period until the next decision.

Does HH believe that Ontario Capital Tax and Large Corporation Tax should be trued up for income tax purposes in the SIMPIL methodology? That is, should the difference between the accrual for accounting purposes and the deduction from the actual tax returns be included in the list of items on which the SIMPIL true-up variance is calculated? Please explain.

HH7. **Re: Issue #3:** In the applicant's models submitted to the Board in evidence on January 8, 2010, HH changed the formula in the cells that should show the Board's maximum deemed interest approved in its 2002 application. Please insert the formula provided in the blank models so that the difference in interest between the maximum deemed amount and the amount from the financial statements will be calculated. Please file these revised models.

The numbers, sheet and cell references are provided below:

- In 2003, on TAXCALC in cell E202 the amount should be $908,170. The difference of $313,431 should appear in cells E204 and E206 and this amount should also appear in cell E112.
- In 2004, on TAXCALC in cell E202 the amount should be $908,170. The difference of $262,773 should appear in cells E204 and E206 and this amount should also appear in cell E112.
- In 2005, on TAXCALC in cell E202 the amount should be $908,170. The difference of $280,664 should appear in cells E204 and E206 and this amount should also appear in cell E112.

HH8. **Re: Issue #3:** In the applicant's 2005 SIMPIL model submitted to the Board in evidence on January 8, 2010, the 2005 PILs proxy information (TAXCALC cell C95) does not agree with the 2005 Board decision and the model(s) that support that decision. Does HH believe its evidence should be corrected? If yes, please correct the evidence that HH has already filed. If no, please explain.

HH9. **Re: Issue #4:** HH replied to staff's IR#4 in June 2, 2009 as follows.

<u>IR#4:</u> Please confirm that there is no adjustment for changes in regulatory assets in the 2002 SIMPIL reconciliation. Please explain the assumptions that Halton Hills made for its 2002 tax returns that resulted in no addition or deduction for regulatory assets.

<u>Response:</u> HHHI confirms that there is no adjustment for changes in regulatory assets in the 2002 SIMPIL reconciliation. No addition or deduction of regulatory assets was made in the 2002 tax return as HHHI believed the regulatory assets would be collectible through future rate increases.

In its SIMPIL evidence, *<u>EnWin</u>* has included the movement in regulatory assets to calculate the balance in 1562 to be recovered from or refunded to ratepayers. The variance is material to the total amount applied for recovery.

a) Does HH believe that *<u>EnWin</u>* should include the movement in regulatory assets in the determination of the PILs balance in 1562 to be recovered from or refunded to ratepayers? Please explain.

HH10. **Re: Issue #5**: HH calculated the amount recovered from customers as the billed amount. HH used the PILs “rate slivers” from the PILs application filing models to calculate the amount that represents billed to customers.

a) Does HH believe that this method is the best method to use? Please explain.

HH11. **Re: Issue #6**: HH responded to staff’s IR #43 on June 2, 2009 as follows.

IR# 43: Please describe how HH extracted the PILs amounts from unbilled revenue during the period 2001 through December 31, 2006.

Response: HHHI extracted unbilled PILs amounts on an annual basis at year-end. The unbilled monthly service charge and variable amounts determined at year-end were multiplied by the PILs proportion of rates, using the methodology described in Interrogatory Response HH40.

a) Does HH believe that this is the only method to deal with unbilled revenue for purposes of the SIMPIL calculations? Are there other alternatives that could also be considered? Please explain.

b) If the information is not available by an applicant to calculate unbilled revenue as at April 30, 2006, how does HH believe this should be treated?

HH12. **Re: Issue # 7:** If a regulated distributor has a service company or parent company that provides services to the LDC, and the service company or parent charges the distribution utility for labour including all overhead burdens, does HH believe that the change in the post-employment benefit liability should be reflected in the distributor’s PILs reconciliations? Please explain.

HH13. **Re: Issue #8:** The materiality threshold incorporated into the SIMPIL models can produce perverse results. In HH’s evidence in its 2004 SIMPIL TAXREC2, the accounting bad debt expense was added back, and because it was above the materiality threshold it generated a tax provision on the amount. However, the deduction for the tax deductible bad debt expense was below the materiality threshold and was ignored in the true-up calculations. The net amount between the accounting number and the actual tax deductible amount should be considered in the calculation.

The original intent of the materiality threshold was to reduce the number of reconciling items that the applicant would have to submit evidence to defend.

a) If evidence on non-material items, other than for policy matters, is not required to be filed in this proceeding, should the materiality threshold be retained in the model given that errors like those identified above are created? Please explain.

b) If HH believes that the materiality threshold should be retained in the model, how should the materiality threshold be applied to determine which amounts should be trued up to avoid the situation described above? Please explain.

HH14. **Re: Issue #9:** Correct tax rates.

a) What income tax rate should be used for true-up calculations and how should this rate be determined?

b) Should Investment Tax Credits, like apprenticeship training, be considered in the determination of the taxes and the tax rate(s) for the SIMPIL true-up calculations? Please explain.

c) *EnWin* incurred losses for income tax purposes in 2001 and 2002 and utilized tax loss carry-forwards in 2003, 2004 and 2005 to reduce taxable income to zero.

How would HH determine the appropriate income tax rate to use in the true-up calculations when there is no taxable income?

HH15. **Re: Issue #10**: HH has included the 2001 PILs proxy (positive number) in the account 1562 continuity schedule in each period until it was removed from rates. As well, HH has shown the amount collected (negative number) from customers by using the 2001 proxy "rate slivers" for the same time period as the proxy remained in rates.

Re: Issue #11: In 2002, HH filed the 2001 SIMPIL under RRR. In the SIMPIL continuity schedule filed on January 8, 2010 there was a true-up amount of $747 which HH showed in the continuity schedule in the 2002 column.

The true-up amount of $747 appears only once in the 2002 column. It does not appear in the 2003 column; and no proration of this amount appears in the 2004 column up to the date the 2001 proxy was removed from rates.

a) Does HH consider this treatment to be inconsistent? Please explain.

HH16. **Re: Issue #12:** In its 2005 SIMPIL continuity schedule, HH has shown prorated amounts for the PILs proxy and the amount collected for the period January 1 to April 30, 2006. It has also shown the true-up items of $31,226 from the 2005 tax year SIMPIL RRR filing in the 2006 column. There are no true-up items shown that relate specifically to the 2006 four-month stub period.

a) Does HH believe that its disclosure reflects the correct interpretation of the SIMPIL methodology? Please explain.

HH17: Re: Issues #: 14, 15, 16, 17, 18, 19, 20, 21, 22.

Should HH wish to provide its comments to assist the Board with these issues, please do so with reference to each issue number.

HH18. Re: Issue #13: Financing fees are included in the all-in cost of debt by Enbridge, Union Gas and Hydro One when they file rate applications. *Barrie* and *EnWin* have shown the amortization of financing fees in their SIMPIL evidence.

a) Does HH consider the amortization of financing fees as shown in the evidence of other distributors to be interest expense? Please explain.

b) Should this cost be included in interest expense for the purpose of the interest claw-back calculations? Please explain.

HH19. Re: Issue #13: Prior to the August 2009 non-transcribed meeting with parties, Board staff provided Halton Hills with completed SIMPIL models for 2001 through 2005 and a summary schedule of the variances produced from these models.

In January 2010, Halton Hills filed these active Excel models on the public record but changed the formula for the interest claw-back true-up in 2003, 2004 and 2005 as described above in IR HH7.

a) Please explain where and why Halton Hills disagrees with staff's interpretations of the SIMPIL methodology as displayed in these models.

b) Does Halton Hills adopt the evidence in these models that it has already filed on the public record? Please explain.

HH20: Re: Issue #13: In HH's evidence filed on January 8, 2010, the Board's maximum deemed interest, which should have been used in the variance calculation under the established methodology, was replaced with HH's actual interest expense. In so doing, HH eliminated the established methodology for truing up excess interest above the deemed amount.

a) What is HH's understanding of the Board's established methodology regarding the excess interest claw-back and has HH followed that guidance?

b) Please describe how the original calculations for excess interest have been disclosed in the Board's SIMPIL models since 2001.

HH21. Re: Issue #13: With respect to long-term investments, loans, advances, and trading balances with affiliated and associated companies for the period 2001 through 2008, please provide the following.

a) A schedule that lists from 2001 to 2008 the balances at each year-end date with each affiliated and each associated company. Please identify and name each loan, and each advance separately from trading balances with each named company related to operating transactions during the year. Please separate debit and credit balances, and add the columns of debit and credit balances.

b) Please show the rate of interest on each loan, each advance and each trading balance for each affiliated and associated company identified in the schedule requested above in HH21.(a).

c) If HH charged less than 7.25% for these loans, advances and trading balances, the rate chosen in its rate applications, please explain why HH expects its ratepayers to subsidize the operations of non-regulated affiliated and associated companies.

d) Have the receivable trading balances from associated and affiliated companies ever been collected in full over successive 12-month cycles with reference to each company?

e) Please describe and quantify the monetary benefits that the regulated distributor and its ratepayers receive from these investments in, loans to, and advances to non-regulated affiliated and associated companies.

Interrogatories for Halton Hills' evidence filed on February 18, 2010 related to: RP-2000-0193 / EB-2000-0428 / EB-2001-0141 Unbundling Application

Reference Material Filed by Board Staff

1. Halton Hills' unbundling application RP-2000-0193 / EB-2000-0428, final submission and related material.
2. PBR1 Electricity Distribution Rate Handbook (EDRH) – link to website for Chapter 3.

http://www.oeb.gov.on.ca/OEB/Industry/Rules+and+Requirements/Rules+Codes+Guidelines+and+Forms/First+Generation+PBR+Distribution+Rate+Handbook

3. Ontario Hydro - Accounting for Municipal Electric Utilities in Ontario
   i) Subject No. 3010 page 3 of 8.
   ii) Subject No. 8020 pages 1 – 5.

HH22. Please confirm that Arthur Skidmore and David Smelsky were both involved in the original applications RP-2000-0193 / EB-2000-0428 / EB-2001-0141.

HH23. Please confirm that the unbundling applications filed on November 23, 2000, and updated in August 2001, complied with the requirements of the EDRH and filing models approved by the Board with particular reference to Chapter 3, especially section 3.4 and all of the related sub-sections, Appendix C, and Appendix D.

HH24. From Halton Hills' final submission and related application evidence in RP-2000-0193 / EB-2000-0428, please identify where HH raised the issue that it has now presented in the PILs 1562 proceeding EB-2008-0381 linking adjustments to 1999 "normalized" rates with the concept of rate base.

HH25. In the amended version of HH's unbundling application filed on August 15, 2001 on which the Board based its decision in proceeding RP-2000-0193 / EB-2000-0428 / EB-2001-0141, please confirm that the following amounts were submitted by the applicant in its application.

- **a)** Rate Base = $25,052,967.65;
- **b)** Net fixed assets = $20,623,190.30;
- **c)** Working capital allowance = $4,429,777.35;
- **d)** Deemed debt = 50%;
- **e)** Deemed equity = 50%;
- **f)** Debt rate chosen by HH = the Maximum of 7.25%;
- **g)** Equity return chosen by HH for MBRR = the Maximum of 9.88%.
- **h)** MARR = $2,145,786.68.

HH26. HH had lowered its rates approved by the former regulator to refund excess working capital to its ratepayers. In the decision issued on August 13, 2001 the OEB allowed HH to adjust its going-in 1999 rates to bring the distributor to a break-even profit position before applying the first tranche of MARR to those adjusted or "normalized" rates. This adjusted "1999 return" as it was called in the application excluded any interest costs or extraordinary items that might have appeared in the financial statements used for the unbundling application. Please refer to Chapter 3 of the EDRH, Subject No. 3010 page 3, and to Subject No. 8020 page 5.

From page 2 of Halton Hills' 2000-2001 application evidence submitted by staff, the following information was provided by Bryan D. Boyce.

"*The apparent difficulty in interpretation of the results of the period from 1994 to 1999 occurs because of an arbitrary definition of the financial distress and how that may apply to Halton Hills Hydro's application. The rate reductions offered to customers resulted in the base rates being set at below cost when the legislation established the 1999 rates as the reference point for subsequent PBR applications to the Board.* "

a) Please confirm that the "normalized" rates approved by the Board in HH's unbundling application were the rates on which further allocations or tranches of MARR were added.

b) Please explain how the distributor can have more than one Board-approved regulatory Rate Base based on the evidence HH filed in the proceeding RP-2000-0193 / EB-2000-0428 / EB-2001-0141, and on which the Board based its final decision.

c) As it was originally filed, please confirm that the dollar amount of the adjustment to revenue to raise the "normalized" rates to a break-even level, so that the "1999 return" was actually zero and not negative, had no relationship with the Board-approved Rate Base in the application for proceeding RP-2000-0193 / EB-2000-0428 / EB-2001-0141.

HH27. In the package of evidence HH filed on February 18, 2010 the pages were not numbered. With reference to PDF page 4, please confirm that the heading of the first column reads, *"REVISED Dec. 31/99 Income Statement using Unbundled Rates STARTING FROM NORMALIZED RATES".*

HH28. Please confirm that these "normalized rates" for 1999 were created by increasing those rates approved by Ontario Hydro, the prior regulator, and were used in HH's unbundling application RP-2000-0193 / EB-2000-0428.

HH29. Please confirm that in its application EB-2002-0088 / EB-2002-0097 HH used the numbers identified above in IR HH25 to calculate its applied-for PILs proxy for 2002 and for the 2001 PILs Z-factor.

HH30. Please confirm that the Board's decision issued on February 28, 2002 on HH's application EB-2002-0088 / EB-2002-0097 approved final rates effective March 1, 2002, and that this decision was based on the application evidence that used the numbers referred to above in IR HH25.

HH31. Please confirm that in HH's 2005 EDR application RP-2005-0013 / EB-2005-0035 for the third tranche of MARR, the rates used and the PILs applied for were based on the numbers as shown above in HH25.

HH32. Please confirm that the Board's decision issued on March 29, 2005 on HH's application RP-2005-0013 / EB-2005-0035 approved final rates effective March 1, 2005 based on the evidence submitted by HH.

HH33. Please confirm that the final rates approved in RP-2005-0013 / EB-2005-0035 remained in force until changed by the Board's decision in proceeding RP-2005-0020 / EB-2005-0374 for 2006 EDR.

HH34. EB-2008-0381 Board Decision with Reasons December 18, 2009

In the Board's decision dated December 18, 2009 on page 5, the Board referred to submissions of the CLD and EDA:

"CLD and EDA disagree with this scope of review. They maintain that the Board cannot change the methodology now, but must determine whether the amounts recorded in Account 1562 were done so in accordance with the methodology as it was known at the time."

The Board found that:

"The Board agrees that the appropriate approach is a review of the account in terms of whether the distributors applied the methodology appropriately as the methodology existed at the time. The Board finds that it would be inappropriate to now change the methodology which was used in the past."

HH filed the SIMPIL models for the 2001 to 2005 PILs tax years as part of its annual RRR filings. The interest true-up or claw-back was a feature of the established methodology since the inception of the SIMPIL methodology.

The established methodology for calculating rate base appeared in Ontario Hydro's 1995 accounting manual for MEUs and in the Board's PBR1 EDRH released in 2000.

a) Please explain how Halton Hills' new version of calculating rate base complies with the Board's established methodology in effect since 2000.