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

AND IN THE MATTER OF a review of an application filed by Essex Powerlines Corporation for an order approving just and reasonable rates and other charges for electricity distribution commencing May 1, 2010.

REPLY SUBMISSIONS

OF

ESSEX POWERLINES CORPORATION

Introduction

1. These are the reply submissions of Essex Powerlines Corporation ("Essex") in RP-2009-0143, an application by Essex for an order approving just and reasonable rates for the distribution of electricity commencing May 1, 2010.

2. On March 3, 2010, the Ontario Energy Board (the "Board" or "OEB") accepted a partial settlement agreement filed with the Board on February 24, 2010 (the "Settlement Agreement"). The parties to the Settlement Agreement were Essex, the Vulnerable Energy Consumers' Coalition ("VECC"), Energy Probe Research Foundation ("Energy Probe"), and the School Energy Coalition ("SEC").

3. The intervenors and Board staff filed written arguments on those issues that were identified in the Settlement Agreement (at page 13) as being unresolved.

4. This reply submission addresses the arguments made by the intervenors and Board staff. It is organized by topic.

Issue 1: Lead/Lag Study

5. Both the intervenors and Board staff argued that Essex should be required to file a lead/lag study with its next cost of service rate application.

6. Essex questions whether the cost of conducting a lead/lag will outweigh any benefits achieved from such a study. Essex is a relatively small utility, with only 28,000 customers (approximately). While Board staff provided examples of other distributors who have been required by the Board to conduct lead/lag studies, those distributors are significantly larger than Essex. They include: Hydro One, Toronto Hydro, and London Hydro.

7. Essex expects that a lead/lag study will be an expensive undertaking, and no associated costs were included in Essex's application. Any internal costs to complete the study would be incremental as it would require overtime costs to collect and analyze the data. External costs would include third party verification of the results as is usually required by the Board.

8. Further, as indicated by Board staff in its argument, Board staff is intending to conduct a generic lead/lag study and issue the results by March 2012. In light of this pending development, Essex submits that it should not be required to conduct its own lead/lag study at a potentially high cost, on the eve of a generic proceeding that should address the intervenors' and Board staff's concerns regarding working capital allowance.

9. Essex notes that in the Board's Burlington Hydro decision (EB-2009-0259), the Board did not require Burlington Hydro to conduct an independent lead/lag study:

> "The Board agrees with Board staff that further work on the formulaic WCA approach is warranted. The Board expects to initiate a generic proceeding/consultation on determining a new working capital methodology in advance of Burlington's next cost of service filing. The Board will not direct Burlington to conduct an independent lead/lag study at this time." (at page 23)

<u>Issue 2: Appropriate Deemed Capital Structure and Return on Equity</u>

i) Deemed Capital Structure

10. Essex proposed a 4% deemed short-term debt component in its capital structure in accordance with both the 2006 *Report of the Board on Cost of Capital and 2nd Generation Incentive Regulation for Ontario's Electricity Distributors* (the "2006 Report"), and the December 11, 2009 *Report of the Board on the Cost of Capital for Ontario's Regulated Utilities* (the "Revised Cost of Capital Report").

11. As written in the Revised Cost of Capital Report, the Board's current policy in regard to capital structure continues to be appropriate:

> "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." (at page 49)

12. The Board was referring to the justification of its deemed short-term equity amount at page 9 of the 2006 Report, where it noted:

> "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."

13. Essex points out that current short term rates are at an all time low and as such they will definitely rise before the next cost of service application in 4 years. Increasing the percentage of short term debt at this time when rates are temporarily low will disadvantage Essex as rates increase.

14. Essex submits that the intervenors have not justified the need for a departure from the 4% deemed short-term debt component for Essex. In fact, Essex questions the basis for the analysis put forward by Energy Probe. Energy Probe acknowledged (at page 6 of 22 of its argument) that the Board noted in its 2006 cost of capital report that short-term debt is a suitable tool to help meet *fluctuations* in working capital levels, yet Energy Probe argued that short-term debt should be used to finance the entire working capital allowance. According to Energy Probe, the "mismatch" between the levels of deemed short-term debt and working capital included in rate base is not appropriate.

15. Essex submits that there is no "mismatch" and there is nothing inappropriate about the Board's current policy on capital structure. Essex uses short-term debt for the exact purpose contemplated by the Board – as a tool to help meet fluctuations in working capital levels. It is also not unusual for a corporation to use long term debt to provide a continuous positive working capital position in order to meet its short-term obligations

16. By way of example, for 2008, Essex had short term debt of $1.5 million or 4% of rate base. A portion of this debt was municipally held and the agreement terms provided the option to the holder to request payment or to defer to a subsequent year. In the past, these debt holders have not requested a payment. If we assume that this trend continues, the short-term debt amounts would be less than 1% for 2008, 2% for 2009 and 2010.

17. By arguing that deemed short-term debt should match working capital, the intervenors appear to making a generic industry-wide argument that is not based on unique facts that specifically pertain to Essex. Essex understands that the intervenors participated in both the 2006 and 2009 cost of capital proceedings. They had the opportunity to (and perhaps did) raise the argument that deemed short-term debt should match working capital. However, the Board has maintained the deemed 4% component, and has applied it in numerous rate proceedings. As such, Essex submits that, in the absence of unique circumstances applicable to Essex, the Board should not accept a generic argument on an issue that has already been addressed and accepted by the Board.

18. Essex notes that Board staff did not object to Essex's use of the 4% deemed short-term debt component in its capital structure. Essex further notes that the same argument posed by the same intervenors was rejected by the Board in the Burlington Hydro proceeding (EB-2009-0259).

ii) Return on Equity

19. Essex has proposed a Return on Equity ("ROE") that is in consistent with the Revised Cost of Capital Report. Based on the Board's February 24, 2010 letter *Cost of Capital Parameter Updates for 2010 Cost of Service Applications*, the ROE that Essex would be entitled to in this proceeding is 9.85%.

20. The intervenors have argued that Essex's allowed ROE should be reduced by 50 basis points because the ROE includes an implicit 50 basis points for floatation and transaction costs that Essex will not incur in the Test Year.

21. Essex submits that at the heart of the intervenors' arguments is a generic industry-wide policy argument that the Board should depart from its approved ROE level in favor of a two-tiered ROE for distributors that incur floatation and transaction costs, and those that do not. Although Essex has not conducted an analysis of distributors who incur floatation and transaction costs, Essex doubts there are many. Therefore, the intervenors are effectively attempting to create an industry-wide shift in the Board's approved ROE methodology by way of precedent.

22. As set out above, the Board convened proceedings in 2006 and 2009 on the cost of capital. Those were the appropriate forums for the intervenors to raise their two-tiered ROE argument – not in Essex's distribution rate application.

23. Essex notes that Board staff did not object to Essex's proposed ROE. Essex further notes that the same argument put forward by the intervenors was rejected by the Board in the Burlington Hydro proceeding (EB-2009-0259). Essex does not believe that it is necessary to reproduce the relevant portion of the Board's decision from that proceeding (pages 26-28 of the Board's decision) in this reply submission. However, Essex adopts those reasons in support of its proposed ROE as part of this reply submission.

Issue 3: OM&A- Regulatory Affairs Manager

24. Essex proposed to add the position of a Manager of Regulatory Affairs. As outlined in Exhibit 4, Tab 4, Schedule 1 and in response to Energy Probe IR#32(c) and VECC IR#19(a), this position was required to centralize activities and provide relief for the finance department to meet IFRS requirements and other accounting responsibilities. Energy Probe states in its argument; "The only regulatory duties identified for this position are collecting data and ensuring the accuracy". As provided in Essex's interrogatory responses noted above, there are many other duties involved with regulatory activities in addition to the cost of service filings and collection and analysis of data. The additional duties, outlined in Essex's response to Energy Probe IR#32(c), include:

- IRM filing and reviews (which are becoming more involved in each generation),
- load forecasting,
- retailer activities,

- RRR filings,
- regulatory assets and liabilities accounting,
- responding to OEB requests for information,
- smart meter regulation,
- ESQR data collection analysis and reporting,
- the review of all LDC decisions
- participate in or at a minimum review OEB consultation documentation and subsequent decisions
- ensure compliance with GEGEA
- OPA program participation, accounting and reporting
- Other CDM program development, deployment, accounting and reporting
- OEFC, IESO audit requirements
- IESO regulatory requirements and filings

25. Energy Probe also suggested that the Electricity Distributors Association (the "EDA") can provide the input for Essex on OEB consultations. Essex would point out that the manner in which the EDA provides input on OEB consultations is through its councils which are made up of representatives from LDC's and not solely EDA staff. The representation on these councils would only be made up of large LDC's if none of the smaller distributors are allowed to have regulatory personnel and therefore would not be fairly represented.

26. Board staff suggest that with this position Essex would have three positions included in OM&A. This is not correct as 40% of the Distribution Engineer and 20% of the Special Customer Accounts Manager costs would be capitalized which equates to 2 positions in OM&A including the regulatory position.

27. In any event, Essex disagrees with Board staff's question on the need for funding three new positions in total. By calling into question the sum of costs that were both settled and unsettled, Essex can only address Board staff's question by arguing in support of the total cost of the new hires. In other words, Essex would have to argue the prudence of new hires that were accepted by the Parties in the settlement agreement, and subsequently accepted by the Board. Essex submits that it would be inappropriate for the Board to consider the cost of the regulatory affairs manager in the context of the sum of costs that have already been settled. Rather, Essex respectfully submits that the Board should determine the prudence of this cost on a stand-alone basis.

28. Essex submits that it has demonstrated the prudence of this cost on a stand-alone basis and requests that it be approved. Essex notes that Board staff did not question the need of the regulatory affairs manager.

29. Essex understands the concern for increasing OM&A costs and has been very diligent in its application with controlling these costs. If the Board does not agree that the cost of a Regulatory Affairs Manager is prudent, Essex requests approval for the cost for a lower-level Regulatory Affairs Analyst be approved. Essex estimates that the OM&A cost of this analyst position would be $68,000, which would reduce the proposed OM&A cost for a Regulatory Affairs Manager by $40,000.

Issue 4: Small Business Tax Deduction

30. The amount of PILs included in rates is based upon deemed return on equity revenue only and does not include revenues from other sources. Based on this premise, Essex would get a small business deduction in 2010. In reality, Essex would not receive the small business deduction at all or at the level that is suggested by the intervenors. We calculate this shortfall to be $15,500 for 2010. Over the IRM period to the next rebasing, this totals $62,000. As intervenors often argue that distributors should not be including costs that they may not incur, Essex would argue that it should not be directed to include tax credits that it does not actually receive. The following chart has been provided in support of this argument.

						2010 Based on Current Tax Rates Distn revenue only		2010 Based on Current Tax Rates Actual Tax income incl rev offsets
Ontario taxable income - 2010						**946,102**		**1,681,682**
Small Business Deduction credit	8.50%	X	500,000	181	365	(21,075)		(21,075)
Surtax	4.25%	X	446,102	181	365	9,402	1,181,682	24,904
Subtotal						(11,674)		3,829
Small Business Deduction credit	7.50%	X	500,000	184	365	(18,904)		(18,904)
Surtax	0.00%	X	446,102	184	365	-	1,181,682	-
Subtotal						(18,904)		(18,904)
Total Tax credits						(30,578)		(15,075)
Fictitious tax credits								(15,503)

<u>Issue 5: Non-Utility Revenues</u>

i) Treatment of Accounts 4375 and 4380

31. Essex did not include Accounts 4375 and 4380 (the "non-utility accounts") in calculating its base revenue requirement for the 2010 Test Year. In its original evidence, Essex forecasted the net margin of the non-utility accounts in 2010 to be $100,000. The intervenors and Board staff have argued that the margin of the non-utility accounts should be used to offset revenue requirement. Essex disagrees.

32. In response to VECC interrogatory #13, Essex wrote that its treatment of the non-utility accounts was consistent with the Board's 2006 EDR model, where those accounts were not included in the revenue offset calculated on sheet 5-5. Neither Board staff nor the intervenors dispute that the 2006 EDR model does not include the non-utility accounts in the revenue offset calculation.

33. According to Energy Probe and Board staff, the exclusion of the non-utility accounts in the 2006 EDR model was an error. Essex finds this claim is remarkable, given that it means that all of the distribution rates set by the Board in 2006 and the subsequent IRM period were erroneous.

34. According to Energy Probe, despite the treatment of non-utility accounts in the 2006 EDR model, the intent of the 2006 EDR Handbook is clear such that the non-utility accounts should be used to offset revenue requirement. This conclusion was reached by way of a circuitous journey through the EDR Handbook that arrives at Appendix A.1, where minimum groupings of accounts are provided. Both Accounts 4375 and 4380 are included among other accounts in the grouping of "Other Income and Deductions". This comes as no surprise, since the grouping in Appendix A.1 simply list the exact same accounts included in the Accounting Procedures Handbook (the "APH") under the section "Other Income/Deductions" (Article 220). In other words, the inclusion of Accounts 4375 and 4380 in the grouping "Other Income and Deductions" in Appendix A.1 is more likely a function of an exercise in cutting and pasting accounts from the APH than an indication of the Board's views on the rate treatment of Accounts 4375 and 4380.

35. Essex could just as easily argue that the grouping in Appendix A.1 was erroneous, and the 2006 EDR model correctly excluded the non-utility accounts from the revenue offset calculation.

36. Intervenors noted that Appendix 2-D of Chapter 2 of the Board's Filing Guidelines for Transmission and Distribution Applications sets out the accounts to be included in the determination of Other Operating Revenue, and because Accounts 4375 and 4380 are included, a conclusion can be drawn that those accounts should be included in the revenue offset calculation.

37. Essex submits that just because the non-utility accounts are in the Other Operating Revenue table at Appendix 2-D, the conclusion cannot be drawn that all Other Operating Revenues set out in Appendix 2-D should be offset from revenue requirement. That conclusion would directly contradict other Board directions, including the *Guidelines for Electricity*

Distributor Conservation and Demand Management (EB-2008-0037) (the "CDM Guidelines"), where the Board wrote:

> "revenues earned from OPA-funded CDM activities are to be kept separate from **(i.e. not used to offset)** the distributor's distribution revenue requirement." [emphasis added] (section 4.2)
>
> and
>
> "A distributor receiving OPA-funded CDM revenues and incurring related CDM expenses and/or capital expenditures should record these transactions in separate non-distribution accounts in the Uniform System of Accounts. For this purpose, account 4375, Revenues from Non-Utility Operations, should be used for revenues and account 4380, Expenses from Non-Utility Operations, should be used for expenses. (section 4.3)

38. Clearly, OPA-funded CDM activities would be captured by Accounts 4375 and 4380 and would therefore be described in Appendix 2-D. Nevertheless, Appendix 2-D says nothing about removing those activities for the purpose of determining the revenue requirement offset, despite the fact that the Board has directed that CDM activities be kept separate from a distributor's revenue requirement. Therefore, the inclusion of Accounts 4375 and 4380 in Appendix 2-D is not determinative of the treatment of those accounts for the purpose of determining the revenue requirement offset.

39. In addition, the Boards guideline: *Regulatory and Accounting Treatment for Distributor Owned Generation Facilities* (G-2009-0300) (the "Generation Guideline") provides for accounting procedures "to ensure that information reported for rate setting purposes relates only to the distributor's rate-regulated business and does not include the assets, liabilities, revenues and costs associated with its **non-rate regulated activities**." [emphasis added]

40. The term "Non-Rate Regulated Activities" is defined by the Generation Guideline as follows:

> ""Non-Rate Regulated Activities" means activities that are carried out by a distributor but not rate-regulated by the Board (e.g., global adjustment mechanism funded CDM Programs, billing and collection services for water and sewage, and distributor-owned generation)." (at Appendix A, Section 1)

41. As set out at Exhibit 3, Tab 3, Schedule 1, Attachment 2, the balances in Essex's Accounts 4375 and 4380 pertain to the following activities, all of which fit within the definition of "Non-Rate Regulated Activities":

Summer Saver Revenues
Peak Saver Revenues
Refrigerator Roundup Revenues

Electricity Retrofit Revenues
OPA Community Initiative revenues
Power Savings Blitz
EPS Street Light Service
EPS Traffic Light Service
EPS Sentinel Light Service
Work for Others
B&C Water & Sewer for town

42. Therefore, based on the Board's own guidance, Essex's "Non-Rate Regulated Activities" that make up its balances in Accounts 4375 and 4380 should not be used in the revenue offset calculation.

43. Even if the Board did wish to regulate Essex's "Non-Rate Regulated Activities" by passing on the profits from those activities to ratepayers by way of revenue requirement offset, Essex questions the Boards jurisdiction to do so. Subsection 78(3) of the *Ontario Energy Board Act*, *1998* (the "OEB Act") restricts the Board's ratemaking authority in this circumstance to setting rates for distributing electricity. None of Essex's "Non-Rate Regulated Activities" fit within the definition of "distribute" in the OEB Act.

44. The intervenors and Board staff seem to have overlooked the benefits of Essex's "Non-Rate Regulated Activities" to Essex's ratepayers. As set out at Exhibit 3, Tab 3, Schedule 1, Attachment 2**,** $1,646,256 less the costs of CDM of $280,399 equals $1,365,857 of Essex's costs that were allocated to these activities. By way of example, Essex's ratepayers only pay $0.285 postage on a shared bill instead of the full cost of $0.57.

45. It is unreasonable to assert that Essex's ratepayers should benefit from both this cost reduction and the profits from the "Non-Rate Regulated Activities", while Essex assumes all of the risk. This would violate the Board's stand-alone principle such that ratepayers who do not contribute to the cost of an activity are not entitled to the benefits of that activity. This principle was described by the Board as follows:

> "In the Board's view, fairness in ratemaking requires adherence to the principle that a party who bears a cost should be entitled to any related tax savings or benefits." (EB-2007-0744, Decision and Order, Page 40)

46. In Essex's case, its shareholder has taken on the risk of hiring staff (with subsequent union contractual agreements) and purchase additional equipment to perform "Non-Rate Regulated Activities" and, therefore, Essex's shareholder should receive the reward. Essex

certainly doubts that the intervenors and Board staff would be amenable to the concept of Essex recovering losses related to its "Non-Rate Regulated Activities" from ratepayers.

47. If faced with the situation of having to transfer the profits from "Non-Rate Regulated Activities" to ratepayers via an offset, Essex does not see why any distributor would continue to engage in such activities. There would be a great deal of risk with no reward. The consequence of distributors ceasing to engage in "Non-Rate Regulated Activities" would be the loss of the opportunity to allocate costs to those activities to the detriment of ratepayers.

48. The SEC has identified other distributors who have incorporated Accounts 4375 and 4380 in their revenue offset calculations. Essex submits that just because other distributors applied for rates on this basis does not mean that the treatment they are proposing will result in just and reasonable rates.

49. Energy Probe pointed to the Board's decision in the Thunder Bay Hydro proceeding as an example the Board accepting its proposed treatment of non-utility accounts. Essex submits that Thunder Bay is essentially a not-for profit distributor who likely did not care about the inclusion of its non-utility accounts in its revenue offset calculation. There would have been no reason for the Board to deal with an issue that was not contentious among the parties to the settlement agreement.

ii) Level of Non-Utility Revenues

50. For the reasons set out above, Essex submits that its non-utility revenues should not be considered for the purpose of determining a revenue requirement offset. However, in the event that the Board disagrees, Essex makes the following submissions regarding the appropriate quantification of its non-utility revenues.

51. In the original evidence, Essex identified revenues in account 4375 of $1,787,240 and expenses in 4380 of $1,687,240 for a net margin of $100,000. Account 4380 was corrected to $1,646,256 in the test year 2010 resulting in a margin of $140,984 (Energy Probe IRR #19). The reduction in net margin therefore from 2008 to 2009 is actually $67,654 ($208,638 - $140,984) and the same for 2010. In the 2010 Test Year, if we add this decrease in margin back, the 2010 total for 2010 be $208,638 (the same as 2008), not $240,984 as stated by Energy Probe.

52. Also, the PILs associated with the costs recorded in Account 4380 should be included in account 4380. Doing so would further reduce the margins. The inclusion of associated PILs in Account 4380 is supported by the Generation Guideline at page 5:

> "Account 4380, Expenses from Non-Utility Operations, Sub-account Generation Facility Expenses. Additional accounts shall be used under this sub-account to record the following categories of costs: (1) energy supply expenses (e.g. fuel), (2) operation, (3) maintenance (4) administration, (5) **taxes/ payment in lieu (PILs)** and (6) amortization expenses." [emphasis added]

53. Further, based on the CDM Guidelines, amounts for the OPA programs should be excluded from the revenue offset calculation as per Essex's comments above.

54. As set out in the following table, if these adjustments are made, the net margin for the 2010 Test Year would be $74,784.

REVENUE ACCOUNT BREAKDOWNS

	Actual Year 3	Bridge Year	Test Year
	2008	2009	2010
4375 - Revenues from Non-Utility Operations			
Summer Saver Revenues	50,902	50,000	50,000
Peak Saver Revenues	151,980	150,000	150,000
Refrigerator Roundup Revenues	45,011	45,000	45,000
Elect Retro Revenues	27,234	25,000	25,000
OPA Community Initiative revenues	20,000	20,000	20,000
Power Savings Blitz	23,531	23,000	23,000
EPS Street Light Service	368,787	300,788	300,885
EPS Traffic Light Service		1,500	1,500
EPS Sentinel Light Service		5,000	5,000
Work for Others	448,397	239,130	239,130
B&C for town	763,231	850,878	927,725
Total Revenues form Non-Utility Operations	1,899,074	1,710,296	1,787,240
4380 - Expenses of Non-Utility Operations			
Summer Saver	(119,751)	(69,242)	(64,242)
Peak Saver	(69,243)	(120,605)	(135,605)
Refrigerator Roundup	(30,554)	(28,554)	(28,554)
Elect Retro	(43,096)	(33,096)	(28,096)
Community Initiative (xmas light xchange)	(12,466)	(12,466)	(13,156)
Power Savings Blitz	(10,746)	(10,746)	(10,746)
EPS Street Light Services			

	(310,480)	(279,430)	(279,529)
EPS Traffic Light Services	(1,421)	(1,394)	(1,394)
EPS Sentinel Light Service		(4,645)	(4,645)
Work for Others	(386,823)	(222,158)	(222,158)
B&W, W&C for town - expenses	(705,856)	(786,976)	(858,131)
Total Expense of Non-Utility Operations	(1,690,436)	(1,569,312)	(1,646,256)
TOTAL NON-UTILITY INCOME	**208,638**	**140,984**	**140,984**

Other Income Margins			
OPA Programs	32,803	38,291	32,601
EPS Street/Traffic/Sentinel Light Services	56,886	21,819	21,817
Work for Others	61,574	16,972	16,972
B&C for Towns	57,375	63,902	69,594
Total Margins	**208,638**	**140,984**	**140,984**
Excl OPA programs	(32,803)	(38,291)	(32,601)
Revised Total Margins	175,835	102,693	108,383
PILs rate	34%	33%	31%
LESS PILs	(58,905)	(33,889)	(33,599)
Net Margin after tax	116,930	68,804	74,784
Year to Year change		(48,126)	5,980

55. As illustrated by the table above, Essex's net margin after tax decreased by $48,126 in 2009 and is forecasted to increase by $5,980 in 2010, resulting in an overall decrease of $42,146 from 2008 to 2010.

56. In regard to the rationale for the margin decrease, Essex provided the following explanation in its response to VECC's interrogatory #13(c):

13(c) With respect to Attachment 2 (page 1) [Exhibit 3/Tab 3/Schedule 1, page 1], please explain why there is roughly a $200,000 difference between Revenue and Expenses for Non-Utility Operations in 2008 but a difference of only $100,000 forecast for 2009 and 2010.

Response:
Essex has reduced the revenues and corresponding expenses from the towns for billing services by a net affect of $100,000 in anticipation that at least one of the towns will not be contracting from Essex for this service.

57. Essex now recognizes that based on the numbers in the evidence, the town contract referenced in this response actually had no negative impact on the change in the 2009 and 2010 margins. Looking at the rows in the table above named "B&C for town" and "B&W, W&C for town – expenses" (reproduced below), it is apparent that the margin for this activity was forecasted to increase:

	2008 ($)	2009 ($)	2010 ($)
B&C for town	763,231	850,878	927,725
B&W, W&C for town - expenses	(705,856)	(786,976)	(858,131)
Total (margin)	57,375	63,902	69,594

58. The primary cause for the 2008-2010 margin decrease of $42,146 can be attributed to street light services as identified by Energy Probe in its interrogatory #19:

Energy Probe Interrogatory # 19

Ref: Exhibit 3, Tab 3, Schedule 1, Attachment 2

a) Please explain why the margin associated with revenues (account 4375) and expenses (account 4380) related to the EPS Street Light Services are forecast to drop from more than $58,000 in 2008 to just over $21,000 in each of 2009 and 2010.

59. The change in margin related to the street light services is approximately $37,000 ($58,000-$21,000), as identified by Energy Probe, which is a function of the economy. Essex provided extensive evidence on its load forecast which supports the forecasted decrease in new connections.

60. In conclusion, Essex submits that it has sufficiently justified its variances of the margins of its non-utility accounts, and maintains that they should not be considered for the purpose of determining the revenue requirement offset. Should the Board disagree, Essex submits that the appropriate offset would be the 2010 net margin after tax of $74,784 as set out in the table above.

<u>Issue 6: Global Adjustment</u>

61. In theory, variances exclusively driven by non-RPP customers should be disposed of through rates exclusive to non-RPP customers. The variance in the 1588 – GA sub-account are exclusively driven by non-RPP customers and therefore the disposition rates would ideally be exclusive to those customers.

62. The drawback to this method is that these variance balances have been accumulated over a period of time. At the time of disposition it is unknown if the customers who are currently non-RPP classified are the same customers who contributed to the variance balances. However, apart from the municipalities that were required to move to non-RPP, the quantity of customers moving to non-RPP is not significant in our estimation.

63. Weighing both of these factors Essex Powerlines feels the method of disposing of the variance in the 1588 – GA sub-account through rates exclusive to non-RPP customers is the most equitable method with a possible exception for municipalities.

64. Essex Powerlines current billing system is capable of implementing a rate rider applicable solely to non-RPP customers for collecting or refunding the balance of the Account 1588 Global Adjustment sub-account. There will be some associated changes required to the billing system but at this time it is not expected to be a significant cost to implement.

65. Due to the fact that Essex Powerlines does not expect the implementation of a separate rate rider to be an issue we do not feel deferral of the disposition of this account is required at this time.