

EB-2009-0278
Algoma Power Inc.
Proposed Revised Settlement Agreement
September 17, 2010

This settlement agreement (the "Settlement Proposal" or "Settlement Agreement") is for the consideration of the Ontario Energy Board (the "Board") in its determination of the Electricity Distribution Rate Application by Algoma Power Inc. ("Algoma" or "API"), EB-2009-0278, for 2010 and 2011 electricity distribution rates and the establishment of the 2010 and 2011 revenue requirement for the purposes of determining the Rural or Remote Rate Protection ("RRRP") amount, all as amended by Algoma on June 7, 2010 (the "Application"). Algoma's Application was received by the Board on June 1, 2010.

Pursuant to Procedural Order No. 1, dated July 20, 2010, a settlement conference was scheduled for August 25, 2010 (the "Settlement Conference"). The Settlement Conference was duly convened in accordance with Procedural Order No. 1 with Mr. George Dominy as the facilitator. The Settlement Conference concluded on August 25, 2010. Algoma and the following intervenors (the "Intervenors" and collectively including Algoma, the "Parties") participated in the Settlement Conference:

Energy Probe Research Foundation ("EP")
School Energy Coalition ("SEC")
Vulnerable Energy Consumers Coalition ("VECC")

By letter dated August 23, 2010, the Algoma Coalition advised that it was unable to attend the Settlement Conference. In its letter, the Algoma Coalition requested that the Board order stakeholder meetings to be held annually between Algoma and its stakeholders including the members of the Algoma Coalition. The Algoma Coalition's request was not addressed in the Settlement Conference. Garden River First Nations and Great Lakes Power Transmission did not participate in the Settlement Conference.

The role adopted by the Board Staff in the Settlement Conference is set out on page 5 of the Board's Settlement Conference Guidelines (the "Guidelines"). Although Board Staff is not a party to this Settlement Agreement, as noted in the Guidelines, the Board Staff who did participate in the Settlement Conference are bound by the same confidentiality standards that apply to the Parties to the proceeding.

These settlement proceedings are subject to the rules relating to confidentiality and privilege contained in the Guidelines. The parties understand this to mean that the documents and other information provided, the discussion of each issue, the offers and counter-offers, and the negotiations leading to the settlement – or not – of each issue during the Settlement Conference are strictly confidential and without prejudice. None of the foregoing is admissible as evidence in this proceeding, or otherwise, with one exception: the need to resolve a subsequent dispute over the interpretation of any provision of this Settlement Proposal.

This Agreement represents a partial settlement of all issues. It is acknowledged and agreed that none of the Parties will withdraw from this Agreement under any circumstances, except as provided under Rule 32.05 of the Board's Rules of Practice and Procedure. The Parties explicitly request that the Board consider and accept this Settlement Agreement as a package. None of the matters in respect of which a settlement has been reached is severable. Numerous compromises were made by the Parties with respect to various matters to arrive at this comprehensive Settlement Agreement. The distinct issues addressed in this proposal are intricately interrelated, and reductions or increases to the agreed-upon amounts may have financial consequences in other areas of this proposal which may be unacceptable to one or more of the Parties. If the Board does not accept the Settlement Agreement in its entirety, then there is no settlement unless the Parties agree that those portions of the Settlement Agreement that the Board does accept may continue as a valid settlement.

According to the Settlement Guidelines (p.3), the Parties must consider whether a Settlement Agreement should include an appropriate adjustment mechanism for any settled issue that may be affected by external factors. The Parties who participated in

the Settlement Conference agree that no settled issue requires an adjustment mechanism other than those expressly set forth herein.

The parties agree that the following three issues will be addressed by way of a hearing for determination by the Board:

- A. What is the appropriate method of calculating the average rate adjustments of other distributors in order to calculate the rate increase for the customers of API, and the remaining amount that is payable under RRRP?
- B. Should API's proposal to recover amounts in Account 1572 Extraordinary Event Costs be approved?
- C. Should API's proposal to establish a new IFRS Deferral Account be approved?

The Parties have not reached a consensus on whether an oral hearing is required for any or all of the three outstanding issues. Any decision of the Board on these issues will not affect settlement on the remaining issues contained in this Settlement Agreement, but will affect the revenue requirement, rates, and RRRP amounts set forth in the attached Appendices.

It is also agreed that this Settlement Agreement is without prejudice to any of the Parties re-examining these issues in any subsequent proceeding and taking positions inconsistent with the resolution of these issues in this Settlement Agreement. However, none of the Parties will in any subsequent proceeding take the position that the resolution therein of any issue settled in this Settlement Agreement, if inconsistent with the terms of this Settlement Agreement, should be applicable for all or any part of the 2010 and the 2011 Test Year.

References to the evidence supporting this Agreement on each issue are set out in each section of the Agreement. Best efforts have been made to identify all of the evidence that relates to each settled issue. The identification and listing of the evidence that relates to each issue is provided to assist the Board. The identification and listing of the

evidence that relates to each settled issue is not intended to limit any party who wishes to assert that other evidence is relevant to a particular settled issue.

The Appendices to the Settlement Agreement provide further evidentiary support. The Parties agree that this Settlement Agreement and the Appendices form part of the record in EB-2009-0278. The Appendices were prepared by the Applicant. The intervenors are relying on the accuracy and completeness of the Appendices in entering into this Agreement.

There is no approved issues list for this proceeding. However, for the purposes of organizing this Settlement Agreement, and without prejudice to the positions of the Parties with respect to the issues that might otherwise be considered in this proceeding should a hearing be required, the Parties have followed API's proposed issues list as set out at Appendix "A" to this Settlement Agreement.

The other appendices attached to this Settlement Agreement are:

- "B" - API Proposed 2010 Tariff of Rates and Charges, Effective December 1, 2010
- "C" – Sheet O1, 2010 Cost Allocation Model arising from this Settlement Agreement
- "D" – The Rate Design Module arising from this Settlement Agreement
- "E" – Bill Impact Summaries arising from this Settlement Agreement
- "F" – API 2011 Revenue Deficiency arising from this Settlement Agreement
- "G" – API 2011 Revenue Requirement Work Form
- "H" – Correspondence from the Algoma Coalition to the Board; August 23, 2010
- "I" – Differences in Appendices if Account 1572 is not recovered from Ratepayers

Summary

In the Application, Algoma presented evidence supporting both a 2010 Test Year and a 2011 Test Year and proposed 2010 distribution rates effective July 1, 2010 and 2011 distribution rates effective January 1, 2011. The Settlement Agreement has its basis in the 2011 Test Year with distribution rates determined using the 2011 Base Revenue Requirement arising from this Settlement Agreement and the 2011 Load and Customer Forecast arising from the Application. Distribution rates are effective December 1, 2010, and the Parties agree that they will not object to a request by Algoma in a future rates proceeding for its rates to be made interim on December 31, 2011.

Appendix "B", the API Proposed 2010 Tariff of Rates and Charges, Effective December 1, 2010 are premised on the 2011 revenue requirement and customer and load forecast arising from this Settlement Agreement and is provided for illustrative purposes. The Retail Transmission Service Charge Rates have been corrected as per Board Staff Interrogatory No. 49. API has assumed a 2.0% average increase in delivery charges for other LDCs for the purposes of calculating the local rates and the RRRP amount. This is the subject of unsettled issue #A set forth above. In Appendices B through H, matters related to the recovery of the Extraordinary Event (noted in part 9a following) are consistent with the Application. Appendix "I" identifies and quantifies the changes to those Appendices if Account 1572 is found not to be recoverable from the ratepayers.

The following table summarizes the settlement on the key ratemaking components:

Summary Comparison – Application Vs. Settlement		
Key Rate Making Components	Application (2011)	Settlement (2011)
Rate Base (Exhibit 2)		
Rate Base	\$76,864,742	\$76,827,242
Allowance for Working Capital	\$4,150,138	\$4,112,638
Capital Expenditures	\$10,869,825	\$10,869,825
Operating Costs (Exhibit 4)		
OM&A	\$9,670,207	\$9,420,207
Amortization	\$4,512,684	\$4,512,684
Income Taxes	\$500,433	\$499,851
Revenue (Exhibits 3 & 6)		
Service Revenue Requirement	\$20,452,136	\$20,198,813
Base Revenue Requirement	\$20,082,054	\$19,828,731
Revenue Offsets	\$370,082	\$370,082
Revenue Deficiency	\$2,743,432	\$2,490,109
Cost of Capital (Exhibit 5)		
Short Term Interest Rate	2.07%	2.07%
Long Term Interest Rate	5.87%	5.87%
Return on Equity	9.85%	9.85%
Capital Structure	60% Debt / 40% Equity	60% Debt / 40% Equity
Return on Rate Base	7.31%	7.31%
Rural or Remote Rate Protection	\$11,596,870	\$11,533,034

Cost Allocation in this Settlement Agreement is a 2010 Cost Allocation. The current distribution revenue from rates is premised on the 2010 Customer and Load Forecast as presented in the Application and the current approved Tariff of Rates and Charges as approved in EB-2007-0744.

The RRRP has been determined using the 2011 Test Year parameters arising from this Settlement Agreement and will be implemented for 2011. The net impact of the

settlement is that the 2010 RRRP funding will be the sum of 11/12^{ths} of the current RRRP funding and 1/12th of the 2011 funding.

The revenue requirement and rate adjustments arising from this Settlement Agreement will allow Algoma to make the necessary investments to serve customers, maintain the integrity of the distribution system, to maintain and improve the quality of its service and to meet all compliance requirements during 2010 and 2011. While Algoma has filed budgets for the Test Years that are illustrative of how it would achieve these goals (for example in Appendix F attached), as is always the case with forward test year cost of service cases, the actual decisions as to how to allocate resources, and in what areas to spend the agreed upon capital and OM&A, are ones that must be made by the utility during the course of the year, subject to the Board's normal review in subsequent proceedings.

Settlement Terms by Issue

1. Administration (Exhibit 1)

1a. Are the proposed effective dates of July 1, 2010 and January 1, 2011 appropriate?

Complete Settlement: For the purpose of obtaining a complete settlement with the exception of the three outstanding issues, the Parties accept a December 1, 2010 effective date using rates for the distribution of electricity determined on the basis of the 2011 revenue requirement.

Evidence: Exhibit 1, Tab 1, Schedule 2.

Supporting parties: API, SEC, EP and VECC

Parties taking no position: None.

Opposing parties: None

1b. Is Algoma's proposal to align its 2011 rate year with its January 1, 2011 fiscal year appropriate?

Complete Settlement: For the purpose of obtaining a complete settlement with the exception of the three outstanding issues, the Parties accept Algoma's proposal to align its 2011 rate year with its January 1, 2011 fiscal year.

Evidence: SEC Interrogatory No. 2c

Supporting parties: API, SEC, EP and VECC

Parties taking no position: None.

Opposing parties: None

2. Rate Base (Exhibit 2)

2 a. Are the amounts proposed for the 2010 and 2011 Rate Base appropriate?

Complete Settlement: For the purpose of obtaining a complete settlement with the exception of the three outstanding issues, and for the purpose of calculating 2011 revenue requirement only, the Parties agree with the proposed 2010 rate base of \$69,471,646 and the 2011 rate base of \$76,827,242.

Evidence: Exhibit 2, Tab 1, Schedule 1, Exhibit 2, Tab 3, Schedule 1, Exhibit 2, Tab 4, Schedule 1, Exhibit 2, Tab 4, Schedule 2.

Supporting parties: API, SEC, EP and VECC

Parties taking no position: None.

Opposing parties: None

2b. Are the amounts proposed for the 2010 and 2011 capital expenditures appropriate?

Complete Settlement: For the purpose of obtaining a complete settlement with the exception of the three outstanding issues, and for the purpose of calculating 2011 revenue requirement only, the Parties agree that the proposed 2010 capital expenditures of \$11,371,113 and 2011 capital expenditures of \$10,869,825 are appropriate.

Evidence: Exhibit 2, Tab 1, Schedule 1, Exhibit 2, Tab 3, Schedule 1, Exhibit 2, Tab 4, Schedule 1, Exhibit 2, Tab 4, Schedule 2.

Supporting parties: API, SEC, EP and VECC

Parties taking no position: None.

Opposing parties: None

2c. Is API's proposal to capitalize its overhead costs appropriate?

Complete Settlement: For the purpose of obtaining a complete settlement with the exception of the three outstanding issues, the Parties agree with API's proposal to capitalize its overhead costs. API agrees to withdraw its request for an exemption from compliance with IFRS overhead capitalization rules, without prejudice to API's right to seek such an exemption in the future by way of application to the Board, and without prejudice to the right of any party to take such position as they believe is appropriate in such proceeding.

Evidence: Exhibit 2, Tab 4, Schedule 4.

Supporting parties: API, SEC, EP and VECC

Parties taking no position: None.

Opposing parties: None

3. Operating Revenue (Exhibit 4)

3a. Is the Customer and Load Forecast appropriate?

Complete Settlement: For the purpose of obtaining complete settlement of all issue with the exception of the three outstanding issues, the Parties agree with API's proposed customer and load forecast.

Evidence: Exhibit 3, Tab 2, Schedule 1.

Supporting parties: API, SEC, EP and VECC

Parties taking no position: None.

Opposing parties: None

4. Operating Costs (Exhibit 4)

4a. Are the proposed Operations, Maintenance and Administration ("OM&A") expenses appropriate?

Complete Settlement: For the purpose of obtaining complete settlement of all issues with the exception of the three outstanding issues, the Parties accept that the Administrative and General portion of the 2011 Test Year OM&A will be reduced from \$9,670,207 to \$9,420,207, being a \$250,000 reduction. The parties have accepted that

the Test Year OM&A has been adjusted to account for an estimated \$35,000 in HST related savings.

Evidence: Exhibit 4, Tab 2, Schedule 1, Exhibit 4, Tab 2, Schedule 2, Exhibit 4, Tab 2, Schedule 3, Exhibit 4, Tab 2, Schedule 5.

Supporting parties: API, SEC, EP and VECC

Parties taking no position: None.

Opposing parties: None

5. Cost of Capital and Rate of Return

5 a. Is the Capital Structure appropriate?

Complete Settlement: For the purpose of obtaining complete settlement of all issues with the exception of the three outstanding issues, the Parties accept the proposed capital structure of 40% equity, 56% long term debt and 4% short term debt.

Evidence: Exhibit 5, Tab 1, Schedule 1, Exhibit 5, Tab 1, Schedule 2

Supporting parties: API, EP, SEC and VECC

Parties taking no position: None

Opposing parties: None

5 b. Is the proposed Cost of Capital appropriate?

Complete Settlement: For the purpose of obtaining complete settlement of all issues with the exception of the three outstanding issues, the Parties accept the proposed cost of capital being 5.87% for long-term debt, 2.07% for short-term debt and 9.85% for return on equity.

Evidence: Exhibit 5, Tab 1, Schedule 1

Supporting parties: API, EP, SEC and VECC

Parties taking no position: None

Opposing parties: None

7. Cost Allocation (Exhibit 7)

7a. Is the Cost Allocation proposed by API appropriate?

Complete Settlement: For the purposes of obtaining complete settlement of all issues with the exception of the three outstanding issues, the Parties agree that the 2010 Cost Allocation Model will be revised such that the 2010 distributions of base revenue will reflect the 2010 Customer and Load Forecast and the 2007 Board Approved distribution rates, EB-2007-0744. Output Sheet O1 of that Cost Allocation Model is provided in Appendix "C" and the live version of the Cost Allocation Model accompanies this Settlement Agreement.

Evidence: Exhibit 3, Tab 2, Schedule 1, Response to Board Staff Interrogatory No. 4.

Supporting parties: API, SEC, EP and VECC

Parties taking no position: None.

8. Rate Design (Exhibit 8)

8 a. Should the fixed monthly charge for the Residential – R2 class of customers be moved to the minimum system with PLCC Adjustment?

Complete Settlement: For the purposes of obtaining complete settlement of all issues with the exception of the three outstanding issues, the Parties accept to hold the Residential – R2 class at the current Board Approved amount for 2010 and 2011.

Evidence: Exhibit 8, Tab 1, Schedule 2

Supporting parties: API, SEC, EP and VECC

Parties taking no position: None.

Opposing parties: None

8 b. What is the appropriate Revenue to Cost Allocation for the Seasonal Customer Class?

Complete Settlement: For the purposes of obtaining complete settlement of all issues with the exception of the three outstanding issues, the Parties accept that seasonal customers should be moved down to the top of the range for the Board's Guideline for Residential Customer; 115.0%. The impact of this change is to reduce the amount of revenue from this class by \$126,869, and increase the amount of RRRP by a similar amount.

Evidence: Exhibit 8, Tab 1, Schedule 3

Supporting parties: API, SEC, EP, and VECC

Parties taking no position: None.

Opposing parties: None

8 c. What is the appropriate methodology for determining the RRRP Average Rate Adjustment for Other Distributors used to set rates for customers classified as Residential?

No Settlement: The Parties disagree on how the average rate for Ontario distributors should be calculated.

Evidence: Exhibit 8, Tab 1, Schedule 1

8 d. Is the proposed Seasonal Class rate mitigation plan appropriate?

Complete Settlement: For the purposes of obtaining complete settlement of all issues with the exception of the three outstanding issues, the Parties accept that the seasonal class rate mitigation is appropriate.

Evidence: Exhibit 8, Tab 1, Schedule 3

Supporting parties: API, SEC, EP, and VECC

Parties taking no position: None.

9. Deferral and Variance Accounts (Exhibit 9)

9 a. Is the proposed disposition of the RSVA – Wholesale Market Service Charge (Account 1580), the RSVA – Retail Transmission Network Charge (Account 1584), the RSVA – Retail Transmission Connection Charge (Account 1586), the RSVA – Power excluding Global Adjustment (Account 1588) and Other Regulatory Assets (Account 1508) appropriate?

Complete Settlement: For the purposes of obtaining complete settlement of all issues with the exception of the three outstanding issues, the Parties accept the proposed disposition of the RSVA – Wholesale Market Service Charge (Account 1580), the RSVA – Retail Transmission Network Charge (Account 1584), the RSVA – Retail Transmission Connection Charge (Account 1586), the RSVA – Power excluding Global Adjustment (Account 1588) and Other Regulatory Assets (Account 1508).

Evidence: Exhibit 1, Tab 1, Schedule 1

Supporting parties: API, SEC, EP, and VECC

Parties taking no position: None.

9 b. The expiry of the Section 71 exemption saw assets of Great Lakes Power Limited transferred to Great Lakes Power Distribution in July 2009. As part of acquiring the distribution assets from Great Lakes Power Limited, Great Lakes Power Distribution (API's predecessor) incurred costs in the amount of \$410,695, which was recorded as an extraordinary event cost. The projected balance as of June 30, 2010 in Account 1525 is \$412,759 which includes \$2,064 of carrying charges. Is the recovery of these Extraordinary Event cost appropriate?

No Settlement: The Parties disagree on whether the amounts charged to Account 1572 are the result of an extraordinary event that is eligible for recovery from ratepayers and, if so, whether the amounts determined by API are correctly calculated and prudently incurred.

Evidence: Exhibit 9, Tab 2, Schedule 2

9 c. Is the establishment of an IFRS deferral account appropriate?

No Settlement: The Parties disagree on whether the IFRS deferral account, as proposed by API, is consistent with Board policy and appropriate in the circumstances of API.

Evidence: Exhibit 9, Tab 1, Schedule 5

9 d. Is the establishment of a Pension deferral account appropriate?

Complete Settlement: For the purpose of obtaining complete settlement of all issues with the exception of the three outstanding issues, the Parties accept that API should not be granted a pension deferral account.

Evidence: Exhibit 9, Tab 1, Schedule 5

Supporting parties: API, SEC, EP and VECC

Parties taking no position: None.

Opposing parties: None

9 e. Is it appropriate to require Algoma to clear its Global Adjustment sub-account account through a specific rate rider?

Complete Settlement: For the purpose of obtaining complete settlement of all issues with the exception of the three outstanding issues, the Parties agree that API should delay clearing the Global Adjustment account until the new CIS system is in place, and therefore API will have the technical ability to clear the account to RPP and non-RPP customers separately. When API has that ability, it will make a separate application for clearance of the account.

Evidence: N/A

Supporting parties: API, SEC, EP and VECC

Parties taking no position: None.

Opposing parties: None

10 a. Is the proposed Smart Meter Rate Adder of \$1.00 appropriate?

Complete Settlement: For the purpose of obtaining complete settlement of all issues with the exception of the three outstanding issues, the Parties agree that the Smart Meter Rate Adder is \$1.00 per metered customer per month.

Evidence: Exhibit 10, Tab 1, Schedule 1

Supporting parties: API, SEC, EP and VECC

Parties taking no position: None.

Opposing parties: None

Application of a future Incentive Rate Mechanism

Complete Settlement: For the purpose of obtaining complete settlement of all issues, Algoma agrees to consult with intervenors prior to proposing any future Incentive Rate Mechanism to set rates in non-rebasing periods.

Evidence: None

Supporting parties: API, SEC, EP and VECC

Parties taking no position: None.

Opposing parties: None