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BY E-MAIL

January 14, 2011

Board Secretary
Ontario Energy Board
2300 Yonge Street, Ste. 2701
Toronto ON M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: Hydro One Brampton Networks Inc.
2011 Distribution Rate Application
Board Staff Submission
Board File No. EB-2010-0132

In accordance with Procedural Order No. 5, please find attached Board staff's submission in the above proceeding. Please forward the attached to Hydro One Brampton Networks Inc. and to all other registered parties to this proceeding.

Sincerely,

Original Signed By

Silvan Cheung
Advisor – Applications & Regulatory Audit

Encl.

2011 ELECTRICITY DISTRIBUTION RATES

Hydro One Brampton Networks Inc.

EB-2010-0132

STAFF SUBMISSION

January 14, 2011

INTRODUCTION

Hydro One Brampton Networks Inc. ("Hydro One Brampton" or the "Applicant") is a licensed electricity distributor serving approximately 131,000 customers in the City of Brampton. Hydro One Brampton filed its 2011 rebasing application (the "Application") on June 30, 2010. Hydro One Brampton requested approval of its proposed distribution rates and other charges effective January 1, 2011. The Application was based on a future test year cost of service methodology.

The Vulnerable Energy Consumers' Coalition ("VECC"), the School Energy Coalition ("SEC"), Energy Probe Research Foundation ("Energy Probe"), and PowerStream Inc. ("PowerStream") were granted intervenor status. No letters of comment were received.[1]

Pursuant to Procedural Order No. 1, a Settlement Conference was convened on October 19, 2010. No settlement was reached between Hydro One Brampton and VECC, SEC and Energy Probe. PowerStream did not participate in the Settlement Conference.

This submission reflects observations and concerns which arise from Board staff's review of the case record including the oral hearing which was held on December 6 and 7, 2010 and is intended to assist the Board in evaluating Hydro One Brampton's application and in setting just and reasonable rates.

THE APPLICATION

In its original application, Hydro One Brampton requested a service revenue requirement of $66,581,754. Hydro One Brampton filed a letter, dated September 2, 2010, providing updates to its application. In the letter, the service revenue requirement was adjusted to $62,721,985. In response to a Board staff interrogatory[2] filed on October 1, 2010, Hydro One Brampton provided a breakdown of its revenue requirement confirming further changes between the time it filed the original application and the closing of the interrogatory stage of this hearing. Its updated revenue requirement was $63,068,857. On November 8, 2010, Hydro One Brampton filed yet another update to its application and its revenue requirement was adjusted to $62,847,561. Board staff has drafted this submission with the understanding that this latest number is the final requested revenue

[1] Response to Board staff IR # 53.
[2] Response to Board staff IR # 52

requirement from Hydro One Brampton for 2011 rates. The proposed rates are set to recover a revenue deficiency of $116,379. This excludes the impact of any updated cost of capital and the parameters that were published by the Board on November 15, 2010. The following is a breakdown of Hydro One Brampton's revenue requirement from its November 8, 2010 updated evidence:

Table 1

2011 Test Year Revenue Requirement

	As Filed June 30, 2010	As Updated November 8, 2010
OM&A Expenses	$25,306,728	$22,176,435
Amortization/Depreciation	$12,494,578	$12,447,839
Income Taxes (Grossed up)	$ 2,520,658	$ 2,281,908
Return		
Deemed Interest Expense	$12,964,060	$12,806,865
Return on Deemed Equity	$13,295,729	$13,134,513
Distribution Revenue Requirement	$66,581,754	$62,847,561
Distribution Revenue	$62,595,342	$58,861,149
Other Revenue	$ 3,986,412	$ 3,986,412
Total Revenue	$66,581,754	$62,847,561

LOAD FORECAST

Exhibit 3 of the Application discusses how the load forecast and customer counts are developed. The kWh forecast and the kW forecast for appropriate classes is presented by customer class. Variance analyses are presented in support of the forecasts.

Hydro One Brampton's weather normalized load forecast is developed using a three-step process:

1. A total system-wide weather normalized energy forecast is developed using a multivariate regression model that incorporates historical load, weather, and economic data.
2. This energy forecast is adjusted by historical loss factors to derive the system-wide billed energy forecast and by a CDM adjustment.
3. The system-wide billed energy forecast is allocated by rate class using a forecast of customer numbers and historical usage per customer.

Customer Forecast

Background

Hydro One Brampton is seeking Board approval for a test year customer forecast of 176,675 customers/connections. The test year forecast is approximately 3.7% higher (or 6,323 customers/connections) than the 2009 actual. The forecast is derived by applying the class specific historical annual growth rate for the bridge and test years. For Large User, Hydro One Brampton expects that the customer number will remain the same as 2009. The following table summarizes customers/connections forecast for 2011:

Table 2

Customer Count Forecast 2011 Test Year Customer Count Forecast (Exhibit 3/ Tab 2/ Schedule 1.0/ Page 4)	
Rate Classes	**No. of Customers/Connections**
Residential	123,660
GS<50 kW	7,893
GS 50 to 699 kW	1,552
GS 700 to 4,999 kW (Intermediate)	106
Large User	6
Unmetered Scattered Load	1,300
Street Lighting	42,158[3]
Total	176,675

Discussion and Submission

Board staff notes that Hydro One Brampton's customer forecast shows a 1.8% annual average growth from the 2009 Actual Year to 2011 Test Year. This is lower than the 3.7% average annual customer growth experienced during the 2005 to 2009 period. Board staff notes that the lowest annual customer growth between the periods of 2005 to 2009 was in 2009 and it was 2.2% as compared to 2008. In comparison, the current customer growth rate proposed by Hydro One Brampton is 1.8% annually. The proposed growth rate is not only lower than its average historical growth rate of 3.7% but it is also lower than the lowest growth experienced by Hydro One Brampton since 2005.

In response to a Board staff interrogatory[4], Hydro One Brampton provided the City of Brampton's planning report. The planning report appears to support a decline in housing starts in the test years; however it forecasts an increase in 2012. Specifically, the planning report stated:

[3] Response to Board staff IR # 52, Appendix AS, Forecast Data For 2011 Test Year Projection

[4] Response to Board staff IR # 13, Appendix L, City of Brampton's planning report

> …….the 2008-2011 period is forecast to mark the bottom of the current decline in housing starts, with slow recovery reflected in an increase in housing completions in 2012.[5]

While the planning report may explain to some extent the low growth in customers in the test year, Board staff remains concerned with the low growth rate proposed by Hydro One Brampton which will underpin the load forecast used to set rates for the next four years. Board staff invites the parties to comment upon the evidence put forward by Hydro One Brampton to support the forecast in this area.

Load Forecast

Background

Hydro One Brampton is seeking Board approval for a test year forecast of 3,772,317,241 kWh or 3,772 GWh. This represents a 4.4% increase from 2009 actual.

To develop its load forecast, Hydro One Brampton used a multivariate regression model to determine the relationship between historical system load purchases with weather data, calendar factors, and socio-economic data. Hydro One Brampton presented the comparison of the results of the model with actual system load purchases for the period from 2001 to 2009. This evidence indicates that the percentage difference between the model estimate and actual load ranged from -1.66% to +1.08% over the regression range.

The following were used as the inputs for the model to generate the weather-normalized system purchases for 2010 and 2011:

- 30 year average Heating Degree Days (“HDD”) and Cooling Degree Days (“CDD”);
- Ontario Real GDP monthly index, based on the Ministry of Finance Provincial Outlook published in March of 2010;
- Population data from the City of Brampton’s planning report as published in April of 2009; and
- Number of days in the month, number of peak hours and a spring/fall flag (binary variable).

Hydro One Brampton made a further adjustment to convert from system purchases load forecast to total billed load forecast by using an average of historical annual loss factors.

[5] Ibid, page 6

In response to an Energy Probe interrogatory[6], Hydro One Brampton stated that 64 GWh of CDM adjustments were included in its 2011 forecast. And in its Application[7], Hydro One Brampton explained that this CDM adjustment was determined based on the IPSP submitted by the OPA to the Board in August 2007 and a further adjustment related to the recent economic recession was included. The class-specific forecasts are summarized in the following table:

Table 3

2011 Test Year Load Forecast (Exhibit 3/ Tab 2/ Schedule 1.0/ Page 4)	
Rate Classes	**kWh**
Residential	1,107,769,581
GS<50 kW	290,725,436
GS 50 to 699 kW	1,123,789,074
GS 700 to 4,999 kW (Intermediate)	832,077,628
Large User	383,275,616
Unmetered Scattered Load	4,899,876
Street Lighting	29,780,031
Total	3,772,317,241

Discussion and Submission

Hydro One Brampton's load forecast shows a 2.2% annual average load growth from the 2009 Actual Year to the 2011 Normalized Test Year, compared to an average annual load growth of 1.4% during the 2003 to 2009 period.

In regards to the CDM adjustment, Board staff notes that the Board recently issued a decision[8] on LDC CDM targets. In the decision, the 2011-2014 Net Cumulative Energy Savings Target for Hydro One Brampton is 189.54 GWh. In response to undertaking J2.1, Hydro One Brampton provided its CDM Strategy and Application for Board-Approved CDM Programs, which described how Hydro One Brampton is going to achieve its CDM target. In its CDM application[9], Hydro One Brampton indicates the Energy Savings from OPA Contracted and Board-Approved CDM Programs for 2011 is 38.8 GWh. Board staff submits that Hydro One Brampton should update its CDM adjustment to 38.8 GWh to reflect its CDM plan in 2011 and the Board may wish to consider whether any revenue deficiency or sufficiency resulting from the implementation

[6] Response to Energy Probe IR # 25
[7] Exhibit 3/ Tab 2/ Schedule 2.0/ page 3
[8] Decision and Order (EB-2010-0215/0216)
[9] Undertaking J2.1, ExhB/Tab1/Sch1/p.1

of this CDM adjustment over the IRM period should be coupled with some sort of a true-up mechanism.

Weather Normalization

Background

Hydro One Brampton's load forecast is normalized for weather. The normalized weather forecast is based on 30 year average monthly HDD and CDD. To test the appropriateness of the 30 year average weather normal method, Board staff compared the accuracy of forecasts based on the proposed method with those based on the 10-year monthly average and 10-year monthly trend method.

Discussion and Submission

In its response to a Board staff interrogatory[10], Hydro One Brampton calculated its forecast using a monthly average HDD and CDD from 2000 to 2009. Board staff notes that a load forecast developed using the 10-year monthly average weather normalization method would increase the proposed forecast by 0.42%. Hydro One Brampton also provided the calculation of its forecast using a trend of monthly HDD and CDD from 2000 to 2009. Board staff notes that a load forecast developed using the 10-year trend weather normalization method would decrease the proposed forecast by 0.76%. Board staff submits that the methodology of Hydro One Brampton weather normalization is reasonable.

OPERATIONS, MAINTENANCE AND ADMINISTRATION ("OM&A")

Background

For the 2011 test year, Hydro One Brampton is requesting Board approval of $22,176,435 in OM&A expenses excluding taxes and amortization expenses. This represents an 8.7% increase over the 2010 Bridge year and a 24.3% increase over 2009 actual. The following table summarizes Hydro One Brampton's OM&A expenses by year.

---

[10] Response to Board staff IR #14

Table 4

	2006 Approved	2006 Actual	2007 Actual	2008 Actual	2009 Actual	2010 Bridge	2011 Test
Operation	$2,720,134	$3,350,836	$3,079,156	$3,544,751	$3,815,041	$4,900,708	$4,559,988
Maintenance	$2,700,089	$3,023,980	$3,091,210	$3,374,105	$3,159,226	$3,590,436	$3,904,606
Billing and Collecting	$3,512,796	$3,775,564	$3,820,263	$4,324,468	$4,897,921	$4,632,782	$5,656,663
Community Relations	$256,376	$1,018,450	$797,999	$371,587	$363,138	$570,000	$640,000
Administrative and General	$4,558,610	$4,986,820	$5,137,182	$5,558,770	$5,601,103	$6,699,374	$7,415,178
Total OM&A	$13,748,005	$16,155,651	$15,925,811	$17,173,680	$17,836,429	$20,393,300	$22,176,435
Year to year % change			*-1.4%*	*7.8%*	*3.9%*	*14.3%*	*8.7%*
% change as compared to 2006 Approved		*17.5%*	*15.8%*	*24.9%*	*29.7%*	*48.3%*	*61.3%*

Hydro One Brampton states that total compensation costs including salaries, base wages, overtime, incentive payments and benefits is $22.4 million for the 2011 test year. This is a 3.1% increase from 2010 and a 10.6% increase from 2009. Hydro One Brampton proposes to increase its 2011 FTEEs by 9.5% as compared to 2009. The following table summarizes Hydro One Brampton's compensation by year.

Table 5[11]

(Salary, Wages, & Benefits)	2006 Approved	2006 Actual	2007 Actual	2008 Actual	2009 Actual	2010 Bridge	2011 Test
Executive	413,579	462,775	527,866	769,186	764,144	778,359	788,301
Management	3,021,598	3,573,192	3,977,675	4,382,773	4,451,264	4,637,163	4,695,056
Non-Union	1,171,065	1,177,295	1,460,133	1,561,516	1,734,120	1,947,394	2,081,976
Union	10,596,189	11,609,953	12,178,791	13,090,374	13,323,748	14,393,375	14,855,503
Total compensation	15,202,431	16,823,215	18,144,465	19,803,848	20,273,546	21,756,291	22,420,836
% change as compared to 2006 Approved		*10.7%*	*19.4%*	*30.3%*	*33.4%*	*43.1%*	*47.5%*
Number of Full Time Employee Equivalent (FTEE)	183	192	201	207	211	225	231
FTEE change as compared to prior year			9	6	4	14	6

[11] Source from Response to Board staff IR # 20

In response to a VECC interrogatory[12], Hydro One Brampton provided the following details of the employee additions in 2010 & 2011. Under the Position Rationale column, 'P' stands for New Program, 'R' for Replacement, 'S' for Succession Planning, 'W' for Increased Workload and 'C' for Complete of Program.

Table 6

POSITION	No. of Hires	Position Rationale	Explanation for New Programs and Increased Workload
Accounts Receivable Analyst	1	R	
Assistant Supervisor – Customer Accounts	1	W	Increases in customers and call volume. Introduction of Smart Meter program has increased call volume.
Building General Helper	1	W	Building is aging therefore more work to be done.
Credit Representative	1	W	Increases in customers and call volume. Difficult economic time - more customers in collections.
Customer Accounts Representative	2	W	Increases in customers and call volume. Introduction of Smart Meter program has increased workload.
Drafting Supervisor	1	R	
Draftsperson	1	R	
Engineering Technician	2	R (1), P (1),	Introduction of Asset Management department.
Fleet Mechanic	1	S,W	Vehicles aging therefore more workload.
Health, Safety & Environment Coordinator	1	S,W	New legislation and legal requirements for documentation has increased workload.
Line Apprentice	3	S	
Human Resources Manager	1	W	Currently the V.P. of Finance & Administration oversees the H.R. department. Requirement to have an individual who may potentially Supervise HR and HSE and be able to do the Labour Relations function.
Conservation & Demand Management (CDM) Representative	1	W	Green Energy Act has created a demand for an Energy Specialist.
Outage Planning Coordinator	1	W	A need to coordinate the planning & outage workflow between Planning, Engineering, Lines and Operations departments.
Project Engineer	2	S	
(Smart Metering Supervisor)	-1	C	
Software Developer	1	S,W	Implementation of new computer software systems & programs.
TOTAL:	20		

Discussion and Submission

<u>Compensation – 2011 FTEEs</u>

Board staff has two concerns with Hydro One Brampton's proposed 2011 level of FTEEs. First, Board staff notes that the increase in overall level of FTEEs as stated in Table 5 above is 20 from 2009 to 2011. This level of increase averages 10 FTEEs per year and is double that of the average increase of roughly 5 FTEEs per year in the 2006 to 2009 period. Second, Board staff notes that one reason for this increase may be that Hydro

[12] Response to VECC IR # 41 (d)

One Brampton is including the replacement positions as a part of the increase. Board staff notes that in response to SEC interrogatory #27, which broke down the increase of FTEEs from the 2006 to 2009 period, Hydro One Brampton did not identify any replacement positions. Board staff is unclear why the four replacement positions are being shown in the 2011 proposed level of FTEEs and why the costs of these positions would not already have been included in the existing budget. In the absence of a clear explanation from the applicant in its reply submission by directing the Board to evidence already on the record to this proceeding, Board staff submits that the Board may wish to consider reducing the compensation costs in 2011 for these four replacement positions which is approximately $386,000[13].

Compensation - CDM Representative

Board staff notes that the Board issued the Conservation and Demand Management Code for Electricity Distributors ("CDM code") on September 16, 2010. The purpose of this CDM code is to set out the obligations and requirements that LDCs must comply with in relation to the CDM targets. Section 5.2 states:

> *A distributor shall use a fully allocated costing methodology for all CDM Programs. The fully allocated costing methodology that distributors must use for the CDM Programs it delivers is set out in Appendix A.*

In Appendix A, subsection 2.3 provides a list of activities which must be included in fully allocated methodology.

> *2.3 The activity analysis referred to in section 2.2 must include the following Marginal Costs and Allocable Costs, where applicable:*
>
> > *(a) all salaries and labour costs including benefits;*
> > *(b) contractor expenses;*
> > *(c) billing and collection;*
> > *(d) customer care, advertising, and marketing;*
> > *(e) administration and general expenses;*
> > *(f) IT costs;*
> > *(g) office equipment; and*
> > *(h) any other cost that a distributor can show is relevant and necessary for the program analysis.*

[13] Calculation based on the average 2010 compensation per FTEE of $96,695 x 4

In reference to section 3.4.1 of the CDM code, it states that

> *If the Board approves a CDM program pursuant to an application filed under section 3.1, such approval will include a determination regarding the amount and timing of payments to be made by the IESO under section 78.5 of the Act in relation to the Board-Approved CDM Program.*

Since salaries and labour costs are included in subsection 2.3 of Appendix A and section 3.4.1 of the CDM code states the payments in relation to the CDM program will be made by IESO, Board staff submits that Hydro One Brampton should exclude all the CDM representative related costs from its 2011 OM&A proposed budget.

If the Board is satisfied with Hydro One Brampton's inclusion of the CDM representative related costs in its 2011 OM&A proposed budget, then the Board should note the following with respect to how Hydro One Brampton has included these costs in its 2011 revenue requirement.

In its Application[14], Hydro One Brampton provides the cost drivers for 2011 OM&A costs. In the "Wages and Benefits" item, a Conservation and Demand Management Representative was identified as a planned hiring of new incremental personnel in 2011. However, in the same schedule, another cost driver item is identified as "Conservation and Demand Management"[15], where it is stated that the increase is associated with the hiring of an additional position to ensure compliance with the government's latest CDM targets. The amount associated with this position is identified as $70,949. Hydro One Brampton was questioned whether it was counting twice the salary of the new CDM hire. In undertaking J1.8 the response was no, but there was no explanation provided as to why the cost drivers presentation was shown that way if in fact there is only one position or in the alternative why two CDM related new hires in 2011 were required. In fact, Table 6 above listed only one additional hire related to a Conservation and Demand Management Representative. Board staff is of the view that in the absence of a clear explanation from Hydro One Brampton in its reply submission by directing the Board to evidence filed to date on the record of this proceeding, the Board may wish to consider disallowing $70,949 from Hydro One Brampton's 2011 OM&A proposed budget.

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[14] Exh4/Tab2/Sch.1.3/p.13/ln 8
[15] Ibid, ln 13

Meter Data Management/Repository ("MDM/R")

In cross examination[16], Hydro One Brampton confirmed that the amount of $758,949 was included in the revenue requirement associated with the MDM/R costs. Costs associated with MDM/R would be charged by the IESO to Hydro One Brampton. In the Board's recent Decision ("EB-2010-0209") on a smart meter application by PowerStream Inc. ("PowerStream"), the Board stated:

> *The Board directs PowerStream to confirm, in its Draft Rate Order, that no costs related to MDM/R services have been included in the costs used to calculate the Disposition Rate Rider.*
>
> *No distributors have been billed for services related to MDM/R by the IESO. At this point in time these costs could not be accurately estimated by the distributor. The Board further notes that the time period for which the IESO might bill PowerStream for MDM/R related costs is yet unknown.*[17]

Thus Board staff submits that the Board should disallow recovery of any MDM/R costs from the IESO in 2011.

Regulatory costs

Hydro One Brampton has requested regulatory costs of $1,045,000 for the 2011 test year. Regulatory costs have increased by approximately 50% from 2006 actual to 2011. The increase is largely due to the increase of regulatory staff, the Board's annual dues, and the costs of preparing the 2011 rate application. Hydro One Brampton has requested to recover the 2011 application costs of $70,000 in one year.

Board staff has no concerns with the quantum proposed. Since the 2011 application cost of $70,000 is a one time cost, Board staff submits that this cost should be amortized over four years.

[16] Tr. Vol.1, p.54

[17] Decision (EB-2010-0209) p.9

Overall Increase

If the Board is satisfied with Hydro One Brampton's clarifications on the items identified by staff above, the Board may wish to consider whether the overall increase requested by Hydro One Brampton is appropriate given its historical performance.

As shown in Table 4, the proposed 2011 OM&A represents a 61.3% increase as compared to 2006 Board Approved OM&A. This represents an annual average increase of approximately 12%. However, in 2009, the OM&A amount shows an increase of 29.7% as compared to 2006 Board Approved OM&A. On an annual basis, this represents an average increase of 10%.

If the Board reduces Hydro One Brampton's OM&A for the items identified by Board staff, the reduced 2011 OM&A will represent a 52% increase as compared to 2006 Board Approved OM&A, which is approximately a 10% annual increase from 2006. This increase is consistent with Hydro One Brampton's historical annual actual increases since 2006. While the Board has limited increases to 5% in recent cost of service applications[18], Board staff submits that Hydro One Brampton's historical experience, as well as the fact that it has been identified as a low cost utility[19],[20], may support Hydro One Brampton's proposed cost levels for the test year.

Incremental OMERS expenses

Hydro One Brampton filed a letter, dated September 2, 2010, providing certain updates to its application. In the letter, Hydro One Brampton stated that on July 5, 2010, OMERS announced an increase to pension plan contributions for the years 2011, 2012 and 2013. Hydro One Brampton also stated that the increases in contributions are material and requested to establish a deferral account to record the increase. The increase is expected to be approximately $1.0 million for this time period. At the Technical Conference[21], Hydro One Brampton provided its estimated amount for incremental OMERS expenses for 2014 and the amount is about half-a-million dollars.

Since OMERS has announced the incremental OMERS expenses which would impact Hydro One Brampton ongoing expenses, Board staff submits that this incremental

[18] For example, Decision on Burlington Hydro (EB-2009-0259), p. 16

[19] Comparison of Ontario Electricity Distributors Costs (EB-2006-0268), dated December 4, 2008

[20] Report for the Board, Third Generation Incentive Regulation Stretch Factor Updates for 2010 (EB-2009-0392), dated February 17, 2010, p.27

[21] Tr. Technical Conference p.153, ln13-25

OMERS expense should be included in the revenue requirement. The amount of $375,000[22] should be included in the 2011 OM&A costs. This amount represents the annual amortized OMERS expenses for the period from 2011 to 2014.

Low Income Energy Assistance Program ("LEAP")

In March 2009, the Board issued its *Report of the Board: Low Income Energy Assistance Program*[23] (the "LEAP Report") which describes the funding level of Emergency Financial Assistance. As set out in the LEAP Report, the Board has determined that the greater of 0.12% of a distributor's Board-approved distribution revenue requirement, or $2,000, is a reasonable commitment by all distributors to Emergency Financial Assistance.

The Board provided further details on rate recovery of Emergency Financial Assistance in its letter issued on October 20, 2010, which clarifies that the LEAP amount proposed would be adjusted in distributors' draft rate orders to account for any changes resulting from the Board's decision on the final service revenue requirement.

On November 8, 2010, Hydro One Brampton updated its OM&A costs to include $75,000 to account for the cost related LEAP in 2011. Board staff submits that although Hydro One Brampton's proposed LEAP amount is about 0.12% of its proposed service revenue requirement, the final amount should be adjusted in its draft rate order to account for any changes resulting from the Board's decision on the final service revenue requirement.

Harmonized Sales Tax

Board staff notes that the provincial sales tax ("PST") and goods and services tax ("GST") were harmonized effective July 1, 2010. Historically, unlike the GST, the PST was included as an OM&A expense and was also included in capital expenditures. Due to the harmonization of the PST and GST, utilities may benefit from a reduction in OM&A expense and capital expenditures.

On November 8, 2010, Hydro One Brampton made further adjustments to its revenue requirement to reflect all cost reductions on OM&A and capital expenditures for 2010 and 2011. Board staff takes no issue with the reductions that Hydro One Brampton has made to reflect its forecasted PST savings.

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[22] [$1 million (2011-2013) + $0.5 million (2014)] / 4

[23] Report of the Board: Low-Income Energy Assistance Program (EB-2008-0150)

Payments in Lieu of Taxes ("PILs")

Background

In its original Application, Hydro One Brampton requested a PILs allowance of $2,520,658 for the 2011 Test year.[24] Subsequently, Hydro One Brampton has made changes to its PILs estimate. The updated PILs allowance for 2011 is $2,281,908.

Discussion and Submission

Based on Hydro One Brampton's original Application and evidence submitted during the proceeding, Board staff notes that the reduction in total taxes is due to: tax rate reductions, and elimination of Ontario Capital tax. In cross examination[25], Hydro One Brampton agreed that its PILs calculation does not include any Provincial or Federal apprenticeship tax credits and cooperative education tax credits. Board staff submits that Hydro One Brampton should include these credit adjustments in its 2011 PILs calculation.

Besides the tax credit adjustments mentioned above, Board staff submits that Hydro One Brampton's proposed PILs methodology and estimate, as amended through response to interrogatories, is reasonable and consistent with Board practice and policy and with known tax legislation.

Board staff notes that other changes to Hydro One Brampton's revenue requirement are possible, due to the Board's decision on Hydro One Brampton's rate base, capital and operating expenditures. These changes also have a flow-through effect on the PILs allowance which should be recoverable in rates.

RATE BASE

Background

Hydro One Brampton is requesting approval of $331.0 million for the 2011 rate base. This amount represents a 11.0% increase from Hydro One Brampton's 2009 actual and a 27.1% increase from its 2006 actual. Changes in rate base from 2006 to 2011 are shown in following table.

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[24] Exh4/Tab8/Sch1.0/p 4.
[25] Tr. Vol. 1, p.59

Table 7[26]

in millions	2006 Actual	2007 Actual	2008 Actual	2009 Actual	2010 Bridge	2011 Test
Rate Base	$260.4	$271.2	$284.6	$298.1	$318.3	$331.0
% change as compared to prior year		4.2%	4.9%	4.8%	6.8%	4.0%

Capital Expenditures

Background

Hydro One Brampton is proposing capital expenditures of $22.68 million in 2011. This represents a 26.7% decrease from 2010, and a 31.9% decrease from 2009 actual. The following table summarizes capital expenditures for Hydro One Brampton from 2006 to 2011 test year.

Table 8[27]

in millions	2006 Actual	2007 Actual	2008 Actual	2009 Actual	2010 Bridge	2011 Test
Capital Expenditures	$21.59	$30.87	$29.09	$33.29	$30.96	$ 22.68
% change as compared to prior year		43.0%	-5.8%	14.4%	-7.0%	-26.7%

Discussion and Submission

Board staff has no concerns with respect to Hydro One Brampton's updated capital expenditures with the exception of Green Energy Act Plan expenditures which are discussed separately in this submission.

Green Energy Act Plan

Overview

Hydro One Brampton submitted its Green Energy Plan as part of its Application on June 30, 2010. Hydro One Brampton requested Green Energy Plan expenditures in rate base of $1,003,000 for 2010, and $1,024,000 for 2011.[28]

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[26] Undertaking J1.13
[27] Undertaking J1.12

Table 9

GEA Plan for 2010 and 2011 (reproduced from Undertaking J1.1)

Allocation of Cost Responsibility based on HOB Direct Benefit Percentages						
HOBNI Green Energy Investment	2010			2011		
	Gen	Prov	HOB	Gen	Prov	HOB
Expansions (up to threshold)	-	-	-	-	$158,437	$36,563
Renewable Enabling Improvements	-	$288,000	-	-	$98,000	-
Smart Grid (SCADA Only)	-	$347,500	$347,500	-	$195,000	$195.000
Smart Grid (Other)	-	-	$20,000	-	-	$341.000
Sub Totals	$0	$635,500	$367,500	$0	$451,437	$572.563
Total	$1,003,000			$1,024,000		

On November 8, 2010, Hydro One Brampton filed a letter with the Board removing its request for Green Energy Plan expenditures for inclusion in rate base. Instead, Hydro One Brampton requested an equivalent funding adder of $163,967 per annum, equivalent to a fixed charge of $0.10 per month, per customer.[29]

As part of the *Filing Requirements on Distribution System Plans* (EB-2009-0397) the Board outlined mechanisms to address funding for expenditures proposed in a GEA Plan. The *Filings Requirements* state that the nature of the mechanism used will depend on whether the Board is able to properly assess prudence of the proposed expenditures based on the evidence filed in the application. These two mechanisms are generally a combination of a rate rider and variance account, or a funding adder and deferral account. The Board indicated that an account to track variances from budget may be

[28] Brampton confirmed these numbers in undertaking J1.1, which updated for changes to overhead rates and reporting figures on a CGAAP basis.

[29] November 8 letter, page 6, “GEA fixed asset continuity”. The calculation of the rate adder is based on the requested expenditures under the GEA plan for 2010 and 2011 as inputs to a calculation of Average Net Book Value for 2011.

established in conjunction with a rider, but did not assign a specific account number in its report. However, the Board established a series of accounts of Capital and OM&A Deferral Accounts for the purposes of administering an adder and deferral account recovery mechanism[30]. Complete descriptions of these accounts are listed below:

Table 10

***Account #* (USoA)**	**Account Name**	**Type**
1531	Renewable Generation Connection Capital Deferral Account	Capital
1534	Smart Grid Capital Deferral Account	Capital
1532	Renewable Generation Connection OM&A Deferral Account	OM&A
1535	Smart Grid OM&A Deferral Account	OM&A
1533	Renewable Generation Connection Funding Adder Deferral Account	Funding Adder
1536	Smart Grid Funding Adder Deferral Account	Funding Adder

Board staff has organized this submission on the issues in this proceeding along the following key areas of interest:

1. Appropriateness of the recovery methodology
2. Uncertainties that persist with respect to recovery, both provincially and from Hydro One Brampton's ratepayers
3. Appropriateness of characterization of smart grid investments
4. Appropriateness of direct benefit percentages
5. Quanta of Green Energy Plan expenditures for approval and recovery

In its submission, Board staff does not focus on the reasonableness of the costs proposed by Hydro One Brampton due to the fact that Hydro One Brampton has not requested a finding of prudence of expenditures in its updated evidence. Board staff does note that total expenditures fall far short of the materiality threshold of 3% of rate

[30] Filing Requirements: Distribution System Plans Filing under Deemed Conditions of Licence (EB-2009-0397), p.22-25

base, or $10 million in any one year of the GEA plan, as set out in the Board's filing requirements[31].

Appropriateness of the Recovery Methodology

Background

It is important to understand how GEA amounts for recovery are characterized by the Applicant and what is actually sought in this Application. Parties sought clarification of Hydro One Brampton's recovery mechanism in cross-examination, with extensive discussion of rate adders, rate riders, deferral and variance accounts, and the tracking entries that parties submitted were necessary. Board staff outlines three alternatives associated with the characterization of Hydro One Brampton's expenditures and the appropriate recovery methodology that would apply.

Alternative 1: GEA capital expenditures for 2010 and 2011 are found prudent and included in rate base. Rates are included in revenue requirement.

Hydro One Brampton's updated application is unique in that it seeks Board approval of its GEA expenditures for 2010 and 2011 as prudent, however it does not seek to include the expenses in rate base, nor final approval of the amounts at this time. At the Technical Conference, Hydro One Brampton agreed with intervenors that "an adjustment would have to be made" to revise GEA expenditures included in rate base downward to reflect expenditures that are funded by provincial ratepayers and recovered through the IESO.[32]

Alternative 2: GEA capital expenditures are found to be prudent, but there is uncertainty with respect to the final amount for recovery.

Under this alternative, revenues necessary to cover costs with respect to Hydro One Brampton's GEA Plan would be collected via rate riders and variance accounts are used to track and record the transactions. Hydro One Brampton has not applied for a finding of prudence from the Board with respect to its GEA capital expenditures. Rather, Hydro One Brampton has applied for approval from the Board for its Green Energy Plan, and for a review of prudency of expenditures at a later date.

[31] Ibid, p.4

[32] Tr. Technical Conference, p37/ln1 to p37/ln21

Intervenors expressed concerns over the certainty of ultimate GEA expenditures incurred and the effect that changes to any Board policy for the calculation of direct benefits might have on amounts ultimately recovered from provincial ratepayers and Hydro One Brampton's ratepayers. Board staff submits that it appears that the applicant and parties were content to track any variance associated with changes to the Board's policy for the calculation of direct benefits, and therefore that concern has been adequately addressed.

Alternative 3: GEA capital expenditures are not found prudent at this time. Revenues are collected through funding adders and deferral accounts are used to track and record the transactions.

The amounts recorded in deferral accounts would be subject to a prudence review for incurred expenditures, therefore a variance account would be unnecessary. Similarly, any collection through funding adders would be tracked for the purposes of prudence review.

At the oral hearing, Hydro One Brampton clarified that it has requested approval of its GEA capital expenditures plan and a funding adder.[33] Hydro One Brampton has not requested a finding of prudence with respect to these costs, at this time. Hydro One Brampton stated that:

> *MR. GAPIC: Now, basically what we're doing is we're submitting for disposition of balances in the future, and at that time, there would be review and prudency review of our costs. And we are comfortable doing it the same way we as we did the smart meter approach.*[34]

Board staff's *Alternative 3* most closely resembles elements of the Board's recent Hydro One Network Inc. ("HONI") decision. The Board examined GEA expenditures previously as part of its decision on Hydro One Distribution's application for 2010 and 2011 rates. In that proceeding, the Board concluded on the basis of the record in that proceeding that it could not approve all the 2010 and 2011 expenditures in HONI's Green Energy Plan.

[33] Tr. Vol. 2, p28/ln10 to p28/ln14
[34] Tr. Vol. 1, p93/ln1 to p93/ln5

For those expenditures that the Board was able to deem prudent, it provided approval.[35] No other aspect of the Green Energy Plan was approved. However, the Board provided a funding mechanism for a portion of the projected Renewable Generation expenditures that were not approved at the time of the decision. As part of its reasons for a funding mechanism in lieu of final approval of expenditures, the Board stated that:

> *"[T]he Board understands that Hydro One will likely need to undertake work in this area [i.e. renewable generation] during 2010 and 2011 and should therefore have funding to undertake that work. The Board concludes that funding adders and deferral accounts should be used to support Hydro One's work, while managing the risk to ratepayers and Hydro One."*[36]

Discussion and Submission

Board staff has presented the Board with three alternatives and makes the following submissions.

Board staff submits that the inclusion of GEA expenditures in rate base pursuant to *Alternative 1* given Hydro One Brampton's revised application request would be inappropriate. It is clear that expenditures requested must be parsed for provincial recovery and Hydro One Brampton ratepayer recovery. The amount in rate base would have to be reduced to account for provincial recovery, and this approach would not avoid the necessity of a variance account to track deviations in both direct benefit percentage changes and amounts budgeted and spent for adjustments (to track any material differences). It will be more difficult to parse and understand Hydro One Brampton's GEA expenditures if they are placed in rate base.

Board staff submits that *Alternative 2* is not favourable in light of alternatives. Hydro One Brampton has not applied for a finding of prudence, merely a finding that it may proceed with its GEA Plan as presented.

Alternative 3 most closely resembles Hydro One Brampton's updated proposal. It also most closely represents the recovery methodology the Board applied in the HONI distribution case, and Board staff submits is the optimal solution in the

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[35] Decision with Reasons, Hydro One Distribution, April 9, 2010, page 33. The Board approved expenditures for Smart Grid and subject to material conditions expenditures associated with six express feeders.

[36] Decision with Reasons, Hydro One Distribution, April 9, 2010, page 37

circumstances. Alternative 3 allows for tracking of key differences and defers the prudence review to a time when the Applicant will be in a better position to provide evidence that establishes that its expenditures were prudent and can be recovered from ratepayers. Board staff submits that a variance account be established to track potential differences in the direct benefits calculation, about which intervenors are concerned, and that Hydro One Brampton should make use of the deferral and funding adder accounts described by the Board in its EB-2009-0397 Filing Requirements (*Distribution System Plans – Filing under Deemed Conditions of Licence*) to record GEA Plan costs and revenues.

Uncertainties that persist with respect to recovery, both provincially and from Hydro One Brampton's ratepayers

Background

Hydro One Brampton indicated in evidence that there is uncertainty with respect to provincial recovery of GEA expenditures.[37] As a result of these uncertainties, Hydro One Brampton argues that it is necessary to recover 100% of GEA Plan expenditures from Hydro One Brampton's ratepayers through its funding adder, with plans to refund amounts to Hydro One Brampton ratepayers as and when the recovery mechanism from provincial ratepayers has crystallized.

At the oral hearing Hydro One Brampton provided the following characterization of the recovery of mechanisms in place:

> *MR. GAPIC: It is really uncertain as to what we'll actually get recovery for. Are we going to get recovery for dollar-for-dollar cost expenditures? Are we going to get a revenue requirement recovery?*[38]

The legislation has provided for rate protection under section 79.1 of the *Ontario Energy Board Act, 1988 (the "OEB Act")*, which will permit collection of a portion of GEA expenditures from provincial ratepayers. Ontario Regulation 330/09[39] ("O.Reg. 330/09") clearly outlines the protection afforded to qualifying distributors:

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[37] Tr. Vol. 1, p33/ln13 to p33/ln21

[38] Tr. Vol. 1, p92/ln14 to p92/ln17

[39] This Regulation is titled "COST RECOVERY RE SECTION 79.1 OF THE ACT".

> *3. (2) The Board shall calculate a monthly amount of compensation, referred to as the distributor's monthly compensation amount, to which each qualifying distributor is entitled, which amount shall be based on the amount calculated under subsection (1).*

Further, O.Reg. 330/09 indicates the frequency with which such amounts will be calculated and updated:

> *3. (3) Where the Board provides rate protection for a qualified distributor's prescribed consumers or classes of consumers, the Board shall, as often as is necessary and no less frequently than annually, calculate an aggregate monthly compensation amount by aggregating the amounts calculated under subsection (2) for each qualified distributor for each month for which collection is required.*

Finally, Section 5 of O.Reg. 330/09, "IESO Monthly payments", clarifies what distributors are entitled to receive from the IESO:

> *5. (1) The IESO shall make a monthly payment to each qualified distributor that is equal to the monthly compensation amount determined by the Board under subsection 3(2), including any payments for an embedded distributor to which the distributor delivers electricity.*

On April 9, 2010, the Board issued a decision in the HONI proceeding for 2010 and 2011 distribution rates setting out an amount for recovery from provincial ratepayers with respect to its GEA spending on a provisional basis.[40] Subsequently, the Board issued a Decision with Reasons on July 22, 2010 which established HONI's Renewable Generation Connection Rate Protection Compensation Amount ("RGCRP") for 2010 based on HONI's provisionally approved amounts and direct benefit percentages.[41] The Board issued a similar decision with respect to HONI's RGCRP Amount for 2011 on December 21, 2010.[42] The Board released the decision on the RGCRP Amount for HONI on its own motion and disposed of the matter without a hearing pursuant to section 21(4) of the *OEB Act*.

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[40] Decision with Reasons, EB-2009-0096, Hydro One Networks Inc, dated April 9, 2010.
[41] Decision with Reasons, EB-2009-0191, Hydro One Networks Inc, dated July 22, 2010.
[42] Decision with Reasons, EB-2009-0191, Hydro One Networks Inc, dated December 21, 2010.

Discussion and Submission

Board staff submits that Hydro One Brampton's claims of uncertainty with respect to provincial recovery do not reflect guidance that a distributor would reasonably take from a reading of the Board's policy documents and decisions on the provincial funding mechanism for *Green Energy Act* expenditures.

Board staff submits that O.Reg. 330/09 sets out the details related to the implementation of the cost recovery framework. This cost recovery framework establishes a process for the IESO to collect the qualified rate protection amount through the Wholesale Market Service Charges and make payment to the eligible distributor. There is no uncertainty related to the recoverability of RGCRP amounts.

Board staff submits that the RGCRP decisions clearly set out how the amounts are to be collected by the IESO and paid to the eligible distributor, and leave no room for misinterpretation or doubt with respect to ultimate recovery. Board staff further submits that the Board now has experience rendering decisions on the RGCRP amount for its largest electricity distribution company and a similar decision particular to Hydro One Brampton's RGCRP amount could be rendered after Hydro One Brampton's rates decision without considerable delay.

Board staff submits that no uncertainties of consequence remain insofar as parties have agreed that any variance related to final approved percentages for direct benefits and those approved by the Board in this application and any variance between expenditures budgeted and actually incurred with respect to GEA in 2010 and 2011 will be tracked in a variance account, should the Board so decide.[43], [44]

Appropriateness of characterization of smart grid investments

Background

Hydro One Brampton proposed a 50-50 split for certain Smart Grid (SCADA) activities for 2010 and 2011. (Hydro One Brampton has also split amounts in 2010 in the same manner; however, it is unclear whether Hydro One Brampton seeks to recover a portion from provincial ratepayers in this Application.)

[43] Tr. Vol. 1, p93/ln17 to p93/ln20
[44] Tr. Vol. 1, p93/ln23 to p93/ln27

HONI's percentages for direct benefits were provisionally approved for Renewable Enabling Investments ("REI") and Expansion investments, at 6% and 17% respectively.[45] In this Application, Hydro One Brampton has requested that a third percentage related to Smart Grid (SCADA) activities be distinguished. Hydro One Brampton has requested that 50% of its investments in 2010 and 2011 related to "Smart Grid (SCADA)" expenditures be allocated to provincial ratepayers. The total amount requested is $695,000 in 2010 and $289,000 in 2011. The table below demonstrates the split for 2010[46] and 2011.

Table 11
Allocation of Cost Responsibility of Smart Grid (SCADA) costs by year[47]

Year	Provincial Ratepayers	Hydro One Brampton
2010 (historical)	347,500	347,500
2011 (test)	144,500	144,500

The *Report of the Board on Direct Benefits*[48] clearly indicated what constitutes an eligible investment. At page 3, the Report of the Board stated that:

> *"The Green Energy Act focused on investments related to both the smart grid and the connection of renewable energy generation. However, O. Reg. 330/09 applies to only investments related to the connection of renewable energy generation in relation to being "eligible investments". As a result,* ***unless a certain smart grid related investment has been identified in the DSC as a Renewable Enabling Improvement, such investments are not "eligible investments" for the purpose of the Act and the regulation.*** *"*[49] [Emphasis added]

[45] Report of the Board, EB-2009-0349, Page 15, footnote 9*, Framework for Determining the Direct Benefits Accruing to Customers of a Distributor under Ontario Regulation 330/09*, dated June 10, 2010.
[46] Investments for Smart Grid (SCADA) in 2010 are included in the table and considered relevant because Brampton has included 2010 costs in the calculation of the rate adder to collect through revenue requirement for collection in lieu of rate base inclusion in this proceeding.
[47] J1.1 and J1.2. J1.2 provides numbers updated for CGAAP
[48] Report of the Board, EB-2009-0349, *Framework for Determining the Direct Benefits Accruing to Customers of a Distributor under Ontario Regulation 330/09*, dated June 10, 2010
[49] Ibid, page 3, bullet 2

The *Report of the Board on Direct Benefits* went on to state how investments which enable generation from the FIT program should be characterized:

> *"Not all investments made by a distributor to accommodate renewable generation will qualify as an "eligible investment". **Investments to connect such generation that is contracted under the feed-in tariff ("FIT") program will be treated as an "eligible investment".***[50] [Emphasis added]

The *Report of the Board on Direct Benefits* further stated with respect to eligible investments that:

> *"[B]ased on the provisionally approved methodology and allocation proposed by Hydro One as part of its 2010 and 2011 distribution rates application, **those dollar amounts represent 6% for REI investments and 17% for Expansion investments**."* [51] [Emphasis Added]

The excerpts above demonstrate that Smart Grid investments would be ineligible for a percentage of provincial contribution *unless* the costs are characterized as REI.

Hydro One Brampton indicated at the Technical Conference that it saw Smart Grid (SCADA) activities as "enabling generation"[52] and also noted that, "additional spending is a direct result of this generation coming in through FIT and microFIT."[53] Board staff submits that Hydro One Brampton has asserted that Smart Grid (SCADA) activities support REI and should be treated in such a manner.

Hydro One Brampton provided general commentary that the cost of new SCADA assets should be shared, stating that:

> *"We already have a well developed SCADA system…*"[54]
> *"These installs are initiated due to generators; however they do benefit load customers from an Operational/Reliability side..."*[55] [Emphasis added]

[50] Ibid, page 3, bullet 3
[51] Ibid, page 15, footnote 9
[52] Tr. Technical Conference, p145/ln17 to p145/ln18
[53] Tr. Technical Conference, p145/ln 20 to p145/ln24
[54] JT1.21, "Current Design of System", p2

> *"New assets that benefit both the generators and the load customers, this investment should be shared equally".*[56]

The Board's *Filing Requirements on Distribution System Plans*[57] made the following comment on the scope of smart grid activities which may be included in a Green Energy Plan: "At the present time, smart grid development activities and expenditures should be limited to smart grid demonstration projects, smart grid studies or planning exercises and smart grid education and training."[58]

Discussion and Submission

Board staff disagrees with the percentages sought for provincial recovery for Smart Grid (SCADA) activities. No Board document ever directed a 50-50 allocation split for Smart Grid expenditures, or assigned any allocation of smart grid costs to be paid for by provincial ratepayers.

If the Smart Grid (SCADA) investment is not considered REI, then it is not an eligible investment, and the expenditures should be recovered directly from Hydro One Brampton's ratepayers. The Board reached this conclusion in HONI distribution (EB-2009-0096).[59]

Hydro One Brampton's evidence appears to support classification of Smart Grid (SCADA) as REI.   Staff submits that the Smart Grid (SCADA) project directly supports enabling renewable generation. In the presence of repeated references to enabling generation, and the absence of detailed analysis that supports a 50-50 split, Board staff submits that the appropriate percentage for this smart grid investment is 6% for Hydro One Brampton ratepayers and 94% for provincial ratepayers, consistent with the percentages in the Board's Report.

Board staff submits that "Smart Grid(Other)" falls in the ambit of Smart Grid investment, and should be recovered from Hydro One Brampton's ratepayers.

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[55] Ibid, "Analysis", p.2
[56] Ibid, "Direct Benefit", p2 to p3
[57] Filing Requirements: Distribution System Plans Filing under Deemed Conditions of Licence (EB-2009-0397)
[58] Ibid, p18
[59] Decision with Reasons, EB-2009-0096, Hydro One Networks Inc., p42

Appropriateness of direct benefit percentages

Background

The *Green Energy Act* amended the *OEB Act* to introduce a mechanism under section 79.1 whereby some of the Board-approved costs incurred by a distributor to make an eligible investment for the purpose of connecting or enabling the connection of a renewable energy generation facility to its distribution system may be recovered from all provincial ratepayers rather than solely from the ratepayers of the distributor making the investment.

Direct benefits are those that are attributable to only the customers of the distributor making the investment and where the benefit is readily quantified in monetary terms. These benefits are often represented in percentage terms according to the type of investment. Hydro One Brampton summarized its request regarding direct benefit percentages in Undertaking JT1.21, reproduced below:

Table 12

HOBNI Green Energy Investment	Allocation of Cost Responsibility		
	Generator	Provincial Ratepayers	HOBNI Customers
Expansions (up to threshold)	-	81.25%	18.75%
Renewable Enabling Improvements	-	100%	0%
Smart Grid (SCADA Only)	-	50%	50%

The Board provided the following provisional percentages for Hydro One Networks Inc. ("HONI") in its EB-2009-0096 Decision:

Table 13

HONI Green Energy Investment	Allocation of Cost Responsibility		
	Generator	Provincial Ratepayers	HONI Customers
Expansions (up to threshold)	-	83%	17%
Renewable Enabling Improvements	-	94%	6%
Smart Grid[60]	-	0%	100%

Hydro One Brampton provided reasoning for its split in an undertaking from the Technical Conference.[61] Board staff acknowledges that Hydro One Brampton requested percentages that differed from the HONI percentages, and is entitled to make arguments to support reasonable departure from the HONI percentages. At the Technical Conference Hydro One Brampton noted that its distribution system differs from HONI's distribution system due to differences in feeder length, age of assets, operating practices, and other factors.[62] Hydro One Brampton also provided further analysis in Undertaking JT1.21 to demonstrate how it computed the direct benefit percentages requested in the application.

Discussion and Submission

It is important to clarify that a funding adder or rate rider should not be based on the assumption of 100% recovery from Hydro One Brampton's ratepayers. Rather, the funding adder should be set on the basis of the direct benefits percentages determined for this application, and amounts that are not otherwise recoverable through another mechanism (i.e. via the IESO's wholesale market service charges).

[60] Decision with Reasons, EB-2009-0096, Hydro One Networks Inc. The Board made no specific finding on an amount to be recovered from provincial ratepayers; however, the Board approved recovery of Hydro One Networks Inc. smart grid expenditures from its own ratepayers.

[61] JT1.21

[62] Tr. Technical Conference. p144/ln1 to p144/ln6

The Board approved HONI provisional percentages to be paid by its ratepayers as 17% for expansions, and 6% for Renewable Enabling Improvements. There was no reference to, or contemplation of, a direct benefit percentage for smart grid activities in HONI's decision with respect to Smart Grid activities.

Board staff submits that Hydro One Brampton's direct benefit percentage of 18.75% for Expansions is reasonable on the basis of the differences in system profile, lives of assets for replacement, and the measured benefit to Ontario's electricity grid and provincial ratepayers.

Board staff is not convinced that Renewable Enabling Investments will not benefit load customers from an operational/reliability standpoint, while recognizing this benefit will be less than that for Expansion investments. Board staff submits that, absent a distinguishing feature of Hydro One Brampton's system that renders HONI's 6% direct benefit inapplicable, the default percentage set in HONI's case would be the most appropriate to apply to Hydro One Brampton.

Pursuant to Board staff's earlier submissions that Smart Grid(SCADA) should be characterized as REI, staff submits that Smart Grid(SCADA) direct benefit should be 6%. Smart Grid(Other) should remain entirely the responsibility of Hydro One Brampton's ratepayers, as per Hydro One Brampton's evidence.

Assuming that direct benefits percentages approved in this decision are approved on a provisional basis, staff submits that Hydro One Brampton should establish a variance account to track the difference between the direct benefit percentages approved in this decision (and associated dollar amounts) for <u>each category of eligible investment</u>, and any subsequent decision from the Board finalizing direct benefit percentages. The variance account entries would provide a recalculation of the assignment of costs, and allow implementation of a debit or credit to each ratepayer group.

Board staff submissions on direct benefits percentages is best summarized in the table below:

Table 14
Board staff submissions on appropriate direct benefit percentages for Hydro One Brampton

Hydro One Brampton Green Energy Investment	Generator	Provincial Ratepayers	Hydro One Brampton Customers
Expansions (up to threshold)	-	81.25%	18.75%
Renewable Enabling Improvements	-	94%	6%
REI (SCADA)	-	94%	6%
Smart Grid (Other)	-	0%	100%

These direct benefit percentages result in a different funding adder, when provincial recovery is removed from the calculation of the funding adder. The appropriate quanta to approve for recovery via the funding adder is discussed in the next section.

Quanta of Green Energy Plan Expenditures for Approval and Recovery

Background

In its November 8 update, Hydro One Brampton requested a funding adder of $163,967 per rate year, equivalent to a fixed charge of $0.10 per month, per customer.[63] The calculation of the funding adder is based on the requested expenditures under the GEA plan for 2010 and 2011 as inputs to a calculation of Average Net Book Value for 2011. The Board has established two accounts to address recording of funding adders: Account 1533—*Renewable Generation Connection Funding Adder Deferral Account*, and Account 1536—*Smart Grid Funding Adder Deferral Account*.

At the oral hearing, Energy Probe sought an undertaking to calculate the funding adder with the removal of the capital expenditures slated for provincial recovery, but was denied such an exercise by Hydro One Brampton on the grounds that such a calculated amount would be speculative and it would be unknown if Hydro One Brampton would

[63] November 8 letter, page 6, "GEA fixed asset continuity". The calculation of the rate adder is based on the requested expenditures under the GEA plan for 2010 and 2011 as inputs to a calculation of Average Net Book Value for 2011.

actually recover those amounts.[64] Energy Probe asked if Hydro One Brampton's customers should be expected to pay the entire GEA Plan expenditures "upfront" and then get a rebate based on what is recovered from provincial ratepayers.[65] Counsel for Hydro One Brampton indicated that the witnesses had answered how they intend to arrange recovery, and Energy Probe moved on to another line of questioning.

Discussion and Submission

Board staff submits that Hydro One Brampton's application for a funding adder to recover costs in lieu of inclusion of expenditures in rate base is reasonable. However, Board staff does not agree with the quanta of costs for recovery, or Hydro One Brampton's characterization that the direct benefit percentages are made irrelevant by its November 8, 2010 application update.

If the Board intends to issue a decision on Hydro One Brampton's RGCRP amount shortly after rendering a distribution rates decision, Board staff reiterates that there is no uncertainty in provincial recovery from the IESO and the administration of rate protection under O.Reg 330/09 is set out in statute and not subject to the Board's discretion. It follows that any funding adder granted to Hydro One Brampton as part of this application should be calculated on the basis of amounts not otherwise slated for recovery from provincial ratepayers through the IESO.

Hydro One Brampton's proposal to collect the funding adder on the basis of 100% allocation to Hydro One Brampton's customers (albeit in the interim period) would result in an over-collection from Hydro One Brampton's ratepayers. From the point of view of a Hydro One Brampton ratepayer's total bill, it is unfavourable to over-collect the funding adder through Hydro One Brampton's distribution rates, when there is no reasonable doubt that collection from the IESO will occur.

Board staff submits that the funding adder should be recalculated on the basis of the percentages presented by Board staff in Table 14 of this submission and that the Board issue a follow up decision on establishing an RGCRP amount.

Reiterating earlier submissions, Board staff submits that all the costs incurred and revenues collected with respect to GEA should be tracked in the deferral accounts as listed in Table 10.

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[64] Tr. Vol. 1, p33/ln13 to p35/ln28
[65] Tr. Vol. 1, p35/ln16 to p35/ln22

As a final administrative matter, it is convenient to compute the amount of the funding adder on an aggregated basis. However, staff submits that Hydro One Brampton should ensure that revenue from the funding adder is tracked separately in USoA accounts 1533 and 1536 to distinguish between renewable generation connection and smart grid funding.

COST OF CAPITAL

Background

The Board has documented its approach to determine the cost of capital in the *Report of the Board on the Cost of Capital for Ontario's Regulated Utilities* (the "Board Report"), issued December 11, 2009, under Board File No. EB-2009-0084. The Board Report is a guideline, but departures from the methodology in the Board Report are expected to be adequately supported.

In Exhibit 5 of its Application, Hydro One Brampton has proposed its test year Cost of Capital. This is summarized in the following table.

Table 15

Cost of Capital Parameter	**Hydro One Brampton's Proposal**
Capital Structure	60.0% debt (composed of 56.0% long-term debt and 4.0% short-term debt) and 40.0% equity
Short-Term Debt	2.07%
Long-Term Debt	6.76%
Return on Equity (ROE)	9.92%
Weighted Average Cost of Capital	7.84% as proposed, but subject to change as the short-term and ROE are updated per the Board Report at the time of the Board's Decision.

On November 15, 2010, the Board issued a letter to provide the updated Cost of Capital parameters to be used in the 2011 rate year cost of service applications for rates effective January 1, 2011. These are summarized in the following table:

Table 16

Cost of Capital Parameter	Updated Value for 2011 Cost of Service Applications for rates effective January 1, 2011
Return on Equity (ROE)	9.66%
Deemed Long -Term Debt rate	5.48%
Deemed Short-Term Debt rate	2.43%

<u>Long Term Debt</u>

In its original Application, Hydro One Brampton calculated its long term debt rate based on the weighted average debt rate of its existing and new debts. At the end of 2009, Hydro One Brampton had $143 million of debt with Hydro One Inc. ("HOI") at an interest rate of 6.95%. Hydro One Brampton proposes to add $10 million of new debt in 2010 and $47 million of new debt in 2011 with HOI. The debt rates are 5.71% and 6.41% respectively. The new debt rate for 2010 was prepared based on the November 2009 edition of *Consensus Forecasts* and new debt rate for 2011 was based on the long term forecast from the October 2009 edition of *Consensus Forecasts.* In response to a Board staff interrogatory[66], Hydro One Brampton did not plan to update the forecast 2011 debt costs. Subsequently Hydro One Brampton indicated that there is no new long term debt issuing in 2010.[67] In addition the new long term debt for 2011 has changed to $42 million in order to achieve the 60/40 debt equity ratio.[68]

Discussion and Submission

Consensus Forecasts provides forecasts for economic parameters 3- and 12-months out from the date of publication; as such, it is not clear how Hydro One Brampton forecasted the debt rate for new debt forecasted for 2011. Board staff submits that the proposed 6.41% for 2011 new debt, if based on October 2009 *Consensus Forecasts* data, is outdated. There was no updated rate provided during the interrogatory process and during the oral hearing.[69]

As the $10 million of new debt for 2010 did not materialize, Board staff submits that this should be removed from the determination of the weighted average cost of long-term debt.

[66] Response to Board staff IR #36 (c)
[67] Tr. Vol. 1 p.62, ln 2-4
[68] Ibid, ln 9-17.
[69] Tr. Vol. 1 p.153, ln10-12

The Board's letter of November 15, 2010 documented that the updated Deemed Long-term debt rate would be 5.48% based on *Consensus Forecasts* and Bank of Canada data from September 2010, and hence reflect more current data. Board staff also notes that the new debt is with an affiliated company. In the absence of other information on the record of the expected cost of the new debt of $42 million that Hydro One Brampton expects to incur in 2011, Board staff submits that the updated Deemed Long-term Debt Rate of 5.48% should apply.

COST ALLOCATION AND RATE DESIGN

Revenue-to-Cost Ratios

Background

The following table provides Hydro One Brampton's 2006, current and proposed revenue-to-cost ratios and the Board's target ranges, as established in the Board's *Application of Cost Allocation for Electricity Distributors EB-2007-0667*.

Table 17
Revenue to Cost Ratio[70]

Customer Class	Column 1 2006 Approved Ratios	Column 2 Current Ratios	Column 3 Proposed Ratios for Test Year	Column 4 Board Target Range
Residential	105.80%	102.45%	101.12%	85% - 115%
GS < 50 kW	122.38%	129.80%	120.00%	80% - 120%
GS 50 to 699 kW	64.05%	71.68%	80.00%	80% - 180%
GS 700 to 4,999 kW (Intermediate)	149.68%	150.17%	130.00%	80% - 180%
Large User	95.39%	100.01%	100.00%	85% - 115%
Unmetered Scattered Load	87.52%	77.71%	80.00%	80% - 120%
Street Lighting	10.63%	12.40%	70.00%	70% - 120%

[70] Response to Board staff IR # 40

As indicated in the column 2 of the above table, Hydro One Brampton currently has four classes that have the revenue-to-cost ratios outside the Board's target ranges listed in column 4. Hydro One Brampton proposes to move the revenue-to-cost ratio for all the classes within the target ranges. The proposed change for GS < 50 kW moves the revenue-to-cost ratio to 120%, the upper band of the Board's target range. The GS 50 to 699 kW, Unmetered Scattered Load, and Street Lighting classes are currently below the target range and Hydro One Brampton proposes to move these classes to the lower band of their respective target ranges. The change for the rest of the classes is with the objective of moving towards a ratio of 100%.

In response to a Board staff interrogatory[71], Hydro One Brampton acknowledged that the Street Lighting class will experience a greater than 10% total bill impact based on the proposed revenue-to-cost ratio for 2011. The total bill impact for the Street Light class will be approximately 31%. And Hydro One Brampton has not proposed a plan to mitigate the bill impact on the Street Lighting class.

Discussion and Submission

Board staff submits that the proposed revenue-to-cost ratios from Hydro One Brampton are all within the Board's target ranges, as established in the Board's *Application of Cost Allocation for Electricity Distributors EB-2007-0667.* Board staff observes that Hydro One Brampton proposes to increase the Street Lighting class revenue-to-cost ratio from 12.40% to 70%. In a Board staff interrogatory[72], Board staff asked the Applicant to produce an alternative scenario that would phase in the revenue-to-cost ratio adjustment for the Street Light class. If Hydro One Brampton takes a phase-in approach by changing the revenue-to-cost ratio for the Street Light class to 45% for 2011, the total bill impact would be reduced to 17.76%. To compensate for the lower revenue from the Street Light class, if the revenue is allocated to the GS 700 to 4,999 kW class, the total bill impact for GS 700 to 4,999kW class will still experience a decrease of 0.18%. The ratio for Street Light class would be moved to 70% in the second year. Board staff proposes that this two year phase-in approach is more reasonable than Hydro One Brampton's proposal.

[71] Response to Board staff IR # 42 (a)
[72] Response to Board staff IR # 42 (b) and (c)

Monthly Service Charges ("MSC")

Background

In its Application, Hydro One Brampton stated that it is appropriate to maintain the same fixed/variable proportions except for Street Lighting class. The Street Lighting class currently has no MSC; hence Hydro One Brampton used the aggregate fixed/variable split for total distribution revenue and applied it to the Street Lighting class[73].

The proposed MSC are below the ceiling of the MSC as indicated in the cost allocation model, except for the GS 50 to 699 kW, GS 700 to 4,999 kW, and the Large Use classes.

Discussion and Submission

Board staff notes that although the proposed MSC for GS 50 to 699 kW, GS 700 to 4,999 kW and Large Use classes exceed the upper bound of the MSC, in past decisions, the Board has noted that it will not require utilities to lower the existing MSC's if they are above the ceiling[74]. Board staff submits that Hydro One Brampton's proposal to maintain its fixed/variable split unchanged is reasonable and is consistent with the Board's Cost Allocation report and in previous decisions.

Transformer Ownership Allowance

Background

In its original Application, Hydro One Brampton proposes to change its Transformer Ownership Allowance from $0.60 per kW to $0.7202 per kW (GS > 50 to 699 kW) and $0.8952 per kW (GS 700 to 4,999 kW). Hydro One Brampton states that the updates are based on the output of the cost allocation model. In its response to a Board staff interrogatory[75], Hydro One Brampton updated its Transformer Ownership Allowance to $0.7048 per kW (GS > 50 to 699 kW) and $0.8758 per kW (GS 700 to 4,999 kW).

Discussion and Submission

Board staff notes that the output values from the cost allocation model are consistent with Hydro One Brampton's proposal. The Board has previously approved a change to

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[73] Response to VECC IR # 53 (a)
[74] *Application of Cost Allocation for Electricity Distributors*, November 28, 2007, EB-2007-0667, p.12-13
[75] Response to Board staff IR #38, Appendix AO

the Transformer Ownership Allowance based on the results of cost allocation models[76].Therefore Board staff submits that the proposals are reasonable.

Retail Transmission Service Rates ("RTSR")

Background

In its original Application, Hydro One Brampton requested to continue the current RTSRs.   In response to a Board staff interrogatory[77], Hydro One Brampton requested a reduction in its RTSR for all classes. Hydro One Brampton's updated RTSRs are based on the model provided by Board staff on August 20, 2010. This model assists electricity distributors to adjust their RTSRs based on a comparison of historical transmission costs adjusted for Ontario Uniform Transmission Rates ("UTRs") levels and revenues generated under existing RTSRs.

Discussion and Submission

Hydro One Brampton's updated RTSRs are based on the model provided by Board staff. Board staff takes no issue with the proposed reductions to the RTSRs. However, Board staff submits that Hydro One Brampton should update its RTSRs in its draft Rate Order based on any new UTRs that may be approved in advance of Hydro One Brampton filing its draft Rate Order.

Low Voltage Charges

Background

Hydro One Brampton is proposing to remove its proposed LV costs for 2011 from its 2011 revenue requirement because the low cost levels, when allocated to the classes, produces rate adders in some cases only when calculated to beyond four decimal places. Therefore, as the Tariff of Rates and Charges includes volumetric kWh rates to only four decimal places, the applicant has proposed not to include an LV adder in the base distribution volumetric rates. The LV costs instead would be recorded in account 1550 directly on an annual basis; the disposition of account 1550 would then be processed annually during the IRM process, as outlined in the *Report on the Board on Electricity Distributor's Deferral and Variance Account Review* ("EDDVAR").

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[76] Guelph Hydro Electric Systems Inc. (EB-2007-0742), Horizon Utilities Corporation (EB-2007-0697)
[77] Response to Board staff IR # 43

Discussion and Submission

Board staff supports Hydro One Brampton's proposal to remove its LV costs from the revenue requirement.

Loss Factors

Background

Hydro One Brampton is proposing a Total Loss Factor (TLF) of 1.0349 (for secondary metered customers < 5,000 kW) based on an underlying Distribution Loss Factor (DLF) of 1.0324 and Supply Facility Loss Factor (SFLF) of 1.0025. The proposed SFLF and DLF are based on the weighted average of five historical years 2005 to 2009. Hydro One Brampton's actual DLF for the 2005 to 2009 period has fluctuated from a low of 1.0300 to a high of 1.0366. The currently approved TLF for secondary metered customers < 5,000 kW is 1.0356.

Discussion and Submission

The proposed TLF for primary and secondary metered customer reflect the decrease of the historic data for the period of 2005 to 2009. Board staff has no concerns with respect to Hydro One Brampton's proposed loss factors.

DEFERRAL AND VARIANCE ACCOUNTS

Balances Proposed for Disposition

Background

Hydro One Brampton disposed of its Group 1 deferral and variances balances as of December 31, 2009 on April 13, 2010 (EB-2009-0199). In this proceeding, Hydro One Brampton requested to dispose its Group 2[78] deferral and variance principal amounts as at December 31, 2009 and the forecasted interest through December 31, 2010. The total amount requested for disposition is $6,548,396.

Hydro One Brampton has proposed a recovery period of 2 years, with an annual recovery amount of $3,274,199.

[78] The Board report EB-2008-0046 describes Group 2 as the accounts that require a prudence review.

Table 18
Account Balances for Disposition[79]

Description	Account	Principal Amounts as of Dec. 31/09 $	Balance for Disposition including forecast interest to Dec. 31/10 $
Other Regulatory Assets	1508	204,933	76,738
RCVA – Retail Cost Variance Account - Retail	1518	65,359	112,023
RCVA – Retail Cost Variance Account – STR	1548	1,098	10,105
Deferred Payments in Lieu of Taxes	1562	4,139,347	5,592,315
RSVA – One-time Wholesale Market Service	1582	1,045,186	1,362,967
2006 and Subsequent Years' PILs and Tax Variance	1592	(558,645)	(605,752)
Total		**4,901,278**	**6,548,396**

The PILs accounts 1562 and 1592 are discussed separately in this submission.

Discussion and Submission

Board staff does not have any concerns with the balances proposed for disposition, or the disposition period for the accounts other than 1562 and 1592.

[79] Argument-in-Chief (AIC), p.4

New or Continued Deferral and Variance Accounts Requested

Background

Hydro One Brampton has requested approval for the following new or continued deferral or variance accounts:

- Variance account for Recovery of Late Payment Settlement Costs
- Ontario Smart Metering System Meter Data Management and Repository Costs (MDM/R)
- Costs Subsequent to IFRS Implementation
- Losses on Early Retirement of Assets under IFRS
- Implementation IFRS revenue requirement CGAAP to IFRS
- Continuation of smart meter deferral and variance account

Discussion and Submission

<u>Variance account for Recovery of Late Payment Settlement Costs</u>
Board staff submits that the Board proceeding EB-2010-0295 is currently under way, to deal with the issues related to this matter. In its Argument-in–Chief ("AIC"), and at the oral hearing, Hydro One Brampton agreed that it would not be opposed to withdrawing this request from this proceeding and allowing it to be subject to the Board's decision in generic proceeding EB-2010-0295. Board staff submits that Hydro One Brampton clarify whether or not it has withdrawn this request.

<u>Ontario Smart Metering System Meter Data Management and Repository Costs (MDM/R)</u>

In the Board's PowerStream Decision, the Board denied PowerStream's request to establish a deferral account for MDM/R costs[80]. Board staff submits that to date, the IESO has not made an application to the Board for MDM/R fees, and it is premature to approve a variance account for Hydro One Brampton. Additionally, this is an issue that impacts all Ontario distributors, and may be addressed by the Board on an industry-wide basis.

[80] Decision (EB-2010-0209), PowerStream Inc. smart meter application, p.9

IFRS

Hydro One Brampton requested approval for the following IFRS related accounts:

- IFRS Deferral Account – Costs Subsequent to IFRS Implementation
- IFRS Deferral Account – Implementation IFRS revenue requirement CGAAP to IFRS; and
- IFRS Deferral Account – Losses on Early Retirement of Fixed Assets.

The first two accounts above were requested to record impacts to the revenue requirement due to changes in modified IFRS.

The account Losses on Early Retirement of Assets under IFRS was requested to capture early retirement of assets once IFRS is adopted.

In response to a Board staff interrogatory, Hydro One Brampton acknowledged its September 2, 2010 letter that stated that Hydro One Brampton would not adopt IFRS in 2011, while reiterating the request for the IFRS related variance accounts.

However, Hydro One Brampton has since "agreed to have the IFRS related accounts dealt with in a future generic proceeding[81]" Therefore, it appears to staff that the applicant has withdrawn its request for these three accounts. Board staff submits that Hydro One Brampton should confirm this in its reply submission.

Continuation of smart meter deferral and variance account

Hydro One Brampton has requested the Board to approve the continuing use of USoA accounts 1555 and 1556 to be used for the final disposition of the Smart Meter program once the program is complete, all smart meters have been installed and all final costs have been recorded to these two accounts.

Board staff suggests that no Board approval is required at this time as these accounts remain open until all smart meter costs have been reviewed on a final basis and the final residual balance has been disposed. Staff notes that 6.3% of the applicant's deployment has yet to be reviewed for prudence and that this will occur at a future proceeding.

[81] AIC, p. 6

PILs accounts 1562 and 1592

Introduction

Hydro One Brampton has applied for disposition of the balances in deferred payments in lieu of taxes (PILs) accounts 1562, and 1592. The Board is also currently conducting a separate combined proceeding[82] with three applicants and several intervenors to determine how and when the deferred PILs 1562 balances should be cleared. The Board intends to apply the outcome of the combined proceeding to the review and disposition of the balances in account 1562 for all remaining rate regulated electricity distributors subject to section 93 of the *Electricity Act, 1998*. Although Hydro One Brampton's PILs obligation is determined by section 89 of the *Electricity Act, 1998*, it has been subject to the same Board SIMPIL[83] methodology as other rate regulated electricity distributors[84] that were at one time municipal electric utilities.

In the combined proceeding, the Board addressed the possibility of a utility applying to the Board for disposition of account 1562 separate from the combined proceeding. Hydro One Brampton is an intevenor, not an applicant in the combined proceeding. In the combined proceeding, the Board noted that, *"The Board wishes to clarify that neither Hydro One Brampton nor any other intervenor in this proceeding will be precluded from making an application subsequent to this proceeding, seeking a different outcome of its particular issues."*[85]

The applicants to the combined proceeding are Halton Hills Hydro Ltd. ("Halton Hills"), PowerStream Inc. (successor to Barrie Hydro) and ENWIN Utilities Ltd. ("ENWIN"). A Settlement Agreement (the "settlement agreement") was filed in the combined proceeding, which the Board accepted on December 23, 2010. Many issues have been settled by the parties and two of those settled issues are the subject of contention in Hydro One Brampton's current application: 1) the tax impacts of regulatory asset movements and the related collections (or recoveries); and, 2) the excess interest PILs tax deductions above the Board's deemed interest allowed in rates.[86]

[82] EB-2008-0381, Account 1562 – Deferred Payments in Lieu of Taxes (PILs), Combined proceeding
[83] SIMPIL is the acronym for spreadsheet implementation model for payments in lieu of taxes
[84] Tr. Vol.1 December 6, 2010/pg153 ln23-28/pg154 ln1-12
[85] EB-2008-0381 Tr. Issues Day, February 9, 2010/ pg1 ln24-28/pg2 ln1-25
[86] December 6, 2010 K1.6 Board Staff PILs Compendium/pg1-36/ Issues 4 and 13

This submission deals with how the Board may wish to consider these two issues in Hydro One Brampton's case. Board staff does not address all remaining issues related to the manner in which Hydro One Brampton has calculated its 1562 balance. It is Board staff's position that Hydro One Brampton's case is not unique with respect to the remaining issues but since the combined proceeding is not yet complete, a final disposition of this account should not be made at this time. It is staff's view that at the time of final disposition, if Hydro One Brampton does not adopt the final methodology that flows from the combined proceeding with respect to all remaining issues, then its proposals should be reviewed by the Board in that application. As Board staff will note later in this submission, one of the options the Board may wish to adopt for the instant proceeding is the clearance of account 1562 on an interim basis pending the outcome of the combined proceeding but with final determinations on the two issues that Board staff addresses in this submission.

As of the close of the record in this proceeding, Hydro One Brampton has proposed a balance for disposition in account 1562 of a recovery from customers of $5,592,315, and a balance for disposition in account 1592 of a refund to customers of $605,752.

Board staff has no issues with the balance proposed by Hydro One Brampton for disposition for account 1592. Board staff notes that Hydro One Brampton also has a balance in account 1563. Account 1563 is a contra account and is intended as a tracking account only in order to mirror account 1562. Account 1563 is not intended to be disposed of but will be used to reflect the activity regarding the disposition of account 1562.

Two of the settled issues in the combined proceeding relate to the tax impacts of regulatory asset movements, and the excess interest deductions above the Board's deemed interest allowed in rates.[87] In the settlement agreement, the parties agreed that regulatory assets should be excluded from PILs calculations both when they were created, and when they were collected, regardless of the actual tax treatment accorded those amounts. Parties also agreed to maintain an interest clawback penalty.

In this proceeding, Hydro One Brampton has taken a different view to that expressed in the settlement agreement as to how these two issues should be applied in its case. The Board in this proceeding decided to hear the evidence that has been placed on the

[87] December 6, 2010 K1.6 Board Staff PILs Compendium/pg1-36/ Issues 4 and 13

record[88] notwithstanding the fact that the settlement agreement, at the time, had not yet been accepted by the Board.

In its preliminary remarks on the first oral hearing day, the Board requested that parties in their submissions not only provide their positions on how to deal with the two issues identified above but also to provide suggestions on whether and how the Board should proceed to dispose of Hydro One Brampton's deferred PILs account 1562.[89] Board staff will identify options for the Board to consider later in this submission.

Background on Account 1562

When the former municipal electricity distribution sector became subject to PILs in 2001, the Board chose a methodology to determine a regulatory PILs tax proxy that would be included in distribution rates so that LDCs could recover the PILs amounts paid to the Ontario Electricity Financing Corporation ("OEFC"). The Board had decades of experience in regulatory tax matters related to gas distributors before 2001.

Many of the public documents that describe the Board's PILs methodology have been filed on the record of this proceeding. These documents include electricity distributor rate ("EDR") application filing instructions, reporting and recordkeeping requirements ("RRR") filing guidelines, frequently asked questions ("FAQ"s) of the Accounting Procedures Handbook ("APH"), and other correspondence.

The Board approved a regulatory PILs tax proxy approach for rate applications coupled with a true-up mechanism (the SIMPIL reconciliations) filed under the Reporting and Record-keeping Requirements ("RRRs") to account for changes in tax legislation and rules during the first performance based regulation ("PBR1") period. The variances resulting from the true-up were tracked in account 1562 for later disposition.

The Report of the Board for 2006 applications ("2006 EDR Report") addressed certain PILs issues such as the treatment of regulatory asset movements. Consultations with the industry started in late summer 2004 and an oral process with evidence and experts was held in January 2005. The Board issued its report on May 11, 2005.[90] The 2006 EDR Report noted that the recovery of regulatory assets should not impact the

[88] Board letter dated October 19, 2010
[89] Tr. Vol.1 December 6, 2010/pg3 ln4-20
[90] RP-2004-0188, Report of the Board, 2006 Electricity Distribution Rate Handbook.

calculation of the PILs tax proxies and that the interest clawback penalty would continue to apply (but with a modified calculation).

Deferred PILs accounts 1562 and 1563 apply to the period 2001 through April 30, 2006. Hydro One Brampton referred to the 2006 EDR Report during its testimony in the instant proceeding.[91]

One key decision issued by the Board following the 2007 EDR process is a decision on ENWIN'S treatment of regulatory asset movements in determining its PILs proxy. ENWIN applied to the Board in 2007 to adjust its PILs proxy included in rates. In the calculation of regulatory taxable income, ENWIN added the recoveries of regulatory assets even though they had taken the related tax deductions in the tax returns of prior periods. The Board disagreed and referred to the 2006 EDR Report and to another prior Board decision for PUC Distribution.[92]

Below, Board staff makes submissions on the two issues identified above for which Hydro One Brampton considers its evidence to be unique and different from the evidence submitted in the combined proceeding.

Discussion and Submission

PILs Tax Impact of Changes in Regulatory Assets and Collections

The Board's deferral and variance accounts received the description of "regulatory assets" in the *Energy Pricing, Conservation and Supply Act, 2002, S.O. 2002, c.23* ("Bill 210") in 2002. This legislation essentially froze distribution rates as of November 11, 2002. A letter from the Minister of Energy, dated December 19, 2003 and sent to all rate regulated LDCs[93], set out a process by which LDCs could proceed to recover their prudently incurred costs associated with regulatory assets over a four year period. The Minister noted that the phase-in will allow additional time for the Board to conduct its own assessment of eligible transition costs and variance account balances. In a letter dated January 15, 2004,[94] the Board decided that the effective date to begin recovery would be

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[91] Tr. Vol.1 December 6, 2010/pg167 ln15-28/ pg168 ln1-6, Argument-in-Chief, p.9
[92] ENWIN EB-2007-0522 pg4-5 and PUC Distribution Inc. RP-2005-0020.
[93] IRR evidence filed in answer to staff interrogatory #57/App.Q/Part 2B pdf pg 118
[94] December 6, 2010 K1.6 Board Staff PILs Compendium/pg44-53

March 1, 2004 and that this recovery would be on an interim basis until final approval was granted by the Board.

The Board issued its major decision related to regulatory assets for four distributors (Hydro One Networks Inc., Toronto Hydro-Electric System Limited, London Hydro Inc. and Enersource Hydro Mississauga Inc.) on December 9, 2004. In that decision, the Board provided the industry with its policies on how it would proceed with the review of the regulatory asset accounts of the remaining distributors.[95] Final approval was granted by the Board for most LDCs as part of the 2006 EDR process, including Hydro One Brampton[96].

A brief description of how movements in regulatory assets impact account 1562 follows. If regulatory expenses were deducted on tax returns, the entry would be negative in the SIMPIL reconciliation because it reduced net income for tax purposes. On the revenue side, recovery of regulatory assets results in an addition to income in the tax returns, and a positive entry in the SIMPIL reconciliation.

Hydro One Brampton deducted its expenses in its tax returns during the tax periods of 2001 to 2005.[97] In the OEB's context, regulatory assets are costs that are recoverable from ratepayers and regulatory liabilities are excess recoveries from ratepayers that may be refunded in rates in a future period. Hydro One Brampton deducted regulatory assets and recognized recovery in their annual tax returns but as will be noted below, it did not use this treatment when filing its SIMPIL reconciliation models that ultimately support the balance in its 1562 variance account.

Board staff notes that Hydro One Brampton's approach to its regulatory assets in its tax return reflects prudent tax planning which has always been encouraged by the Board. From a tax planning perspective, the prudent taxpayer normally would take deductions when possible and defer recognizing income to a future period. In a period of declining tax rates that has been seen in Canada since 2001, it was beneficial to take the deductions in early years and to recognize income in later years when the tax rates declined. For Ontario electricity distributors, this real scenario has reduced the total PILs paid over time.

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[95] RP-2004-0117/0118/0100/0069/0064, Review and Recovery of Regulatory Assets – Phase 2, Decision, December 9, 2004.

[96] Decision, RP-2005-0020/EB-2005-0377, 2006 EDR

[97] IRR evidence filed in answer to staff interrogatory #57/App.Q/Part 2A pg57-178, 2B, 2C, 2D, 2E

Tax deductions for regulatory assets and the related negative SIMPIL entries started in 2001. Recoveries of regulatory assets and the related positive SIMPIL entries began in 2004 for Hydro One Brampton and the majority of distributors.

The Board issued an FAQ in April 2004 in which it approved a new contra account 1590, recovery of regulatory asset balances - credit.[98]

> *This account shall be used to record regulatory asset balances recovered (as authorized by the Board) by the utility.*

This credit contra account 1590 was used as an offset to, or a reduction of, the debit amounts recorded in the many regulatory asset accounts for the period 2001 to 2005. The Board incorporated this approach in the filing instructions for 2004, 2005 and 2006 regulatory asset recovery applications.[99] In 2006, account 1590 evolved to track both the debits and credits after final approval by the Board. Board staff submits that Account 1590 has never been an impairment reserve or a provision for doubtful recovery. For Hydro One Brampton in the period 2001 to 2005, account 1590 was used only to record collections recovered from customers plus interest carrying charges. In Hydro One Brampton's own audited financial statements these collections were deducted from the debit balances to derive the net carrying value of regulatory assets.[100]

Since the recovery period approved in 2004 was four years, April 30, 2006 stands approximately at the mid-way point. This is an important date because it represents the end date for the tracking of amounts in account 1562 as determined by the Board. Effective May 1, 2006, new entries (except for interest) for account 1562 were not permitted as the Board determined that it will not continue to reconcile PILs in rates going forward. Thus, the positive entries resulting from the recoveries from May 1, 2006 forward cannot be incorporated into the SIMPIL reconciliation.

Hydro One Brampton in its account 1562 evidence has removed the impact of the deductions (negative SIMPIL entries) which it took in its tax returns.[101] Table 19 that follows summarizes the deductions and the grossed-up tax values included in Hydro One Brampton's SIMPIL models on sheet TAXREC3 filed in evidence on October 4, 2010.

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[98] December 6, 2010 K1.6 Board Staff PILs Compendium/pg77-78

[99] December 6, 2010 K1.6 Board Staff PILs Compendium/pg44-55/pg58-64/pg65-76

[100] Audited financial statements: 2004, Note 8; 2005, Note 9.

[101] IRR evidence filed in answer to staff interrogatory #57/App.Q/Part 2A pg57-178, 2B, 2C, 2D, 2E

Tax items listed on sheet TAXREC3 are not included in the calculation of ratepayer true-up amounts. However, Hydro One Brampton has kept the positive entries associated with recoveries of regulatory assets recorded in account 1590 (up to April 30, 2006) in the SIMPIL worksheets that do true-up to ratepayers because of what Hydro One Brampton states is 'doubt' related to recovery.

These recoveries have been shown on a SIMPIL schedule entitled 'Tax and Accounting Reserves'. However, in its RRR SIMPIL filings with the Board for 2001 to 2005, Hydro One Brampton showed the deductions as negative entries in the SIMPIL model that trued up to ratepayers. It appears that upon preparing its Application, Hydro One Brampton chose to change its approach to the treatment of deductions in determining the final 1562 variance account balance. As will be shown below, the change in approach results in a significant increase in the balance in account 1562 that is recoverable from ratepayers.

What Hydro One Brampton disclosed in its real tax returns were deductions for the expenses incurred (regulatory assets) and additions to income for the amounts recovered and recorded in account 1590 (provisions or reserves). This treatment is consistent and complies with tax law. However, for regulatory PILs tax purposes, Hydro One Brampton wants the Board to ignore the deductions resulting in a large change in the balance in Account 1562 as discussed later.

From 2001 through December 31, 2005, Hydro One Brampton paid less tax than it otherwise would have paid had it not taken the deductions related to regulatory assets. If Hydro One Brampton wants to include the positive benefits of the recoveries in SIMPIL, it should also record the negative entries associated with the tax deductions. The Board has issued several decisions on this matter over the years including the two noted earlier in this submission. The Board's intent as outlined in those decisions is to ensure that there is no impact on the PILs flowing from the movement of regulatory assets and liabilities and the related collections or recoveries. The Board has applied this approach consistently in both the pre-2006 SIMPIL period and the post-2005 PILs period in determining the annual proxy tax in rates.

The Board's methodology to determine regulatory PILs taxes cannot generate the correct result unless both sides of the regulatory asset equation are left in the reconciliation or are taken out of the reconciliation. Hydro One Brampton has recorded only one side of the equation in calculating the true-up amount applicable to ratepayers. In Board staff's submission, the correct approach would be for Hydro One Brampton to move the impact of the recoveries recorded in account 1590 to sheet TAXREC3, then both sides of the regulatory asset and collection issue would not true up to ratepayers.

In the table below, Board staff has identified the amounts and tax values of the regulatory asset deductions (negative amounts in SIMPIL) of $8,954,663 that Hydro One Brampton has not reflected in the SIMPIL true-up to ratepayers but did deduct in its tax returns. Interest carrying charges have not been included. [102]

Table 19

Year	Tax Rates	Tax Rates for Gross-up Less Surtax of 1.12%	Regulatory Asset Amounts Deducted on SIMPIL Sheet TAXREC3 $	Applicable Tax Amount $	Grossed-up Tax Amount for SIMPIL Reconciliation $
	A	B=A-1.12%	C	D = A x C	E = D/(1-B)
2001	41.22%	40.10%	(655,622)	(270,247)	(451,164)
2002	38.62%	37.50%	(8,880,062)	(3,429,480)	(5,487,168)
2003	36.62%	35.50%	(2,329,964)	(853,233)	(1,322,842)
2004	36.12%	35.00%	(373,747)	(134,997)	(207,688)
2005	36.12%	35.00%	(2,673,783)	(965,770)	(1,485,801)
Total					**(8,954,663)**

Hydro One Brampton's reported 2009 RRR balance in account 1562 was a liability of ($2,690,380).[103] In its Application, Hydro One Brampton stated that, "Hydro One Brampton re-calculated and restated the PILs true up amounts for 2001 through to April 30, 2006."[104] Board staff notes that in pre-filed evidence the account changed by $6,123,008 to a receivable from ratepayers of $3,432,627.[105] However, this changed amount reflects mainly the elimination of the interest clawback which will be discussed later. The negative SIMPIL entries related to deductions of regulatory assets appear to have been adjusted by Brampton sometime before the 2009 balances were reported to the Board under RRR.

[102] SIMPIL model spreadsheets for 2001-2005 filed on October 4, 2010
[103] Exh9/Tab1/Sch5.0/Pg3 September 30, 2010
[104] Exh9/Tab1/Sch1.0/Pg5 June 30, 2010
[105] Exh9/Tab1/Sch1.0/Pg4 and Exh9/Tab1/Sch5.0/Pg3 June 30, 2010

In its update dated September 30, 2010, Hydro One Brampton further modified its evidence. It reconciled the 2009 RRR credit/ payable amount of $2,690,380 with its revised request of $5,569,549 (plus interest for 2010).[106] This represents an increase in the proposed recovery from ratepayers of $8,259,929.

In response to Board staff interrogatory #63 Hydro One Brampton stated:

> *"Hydro One Brampton excluded regulatory assets/liability movements from PILs calculations both when they were created, and when they were collected, regardless of the actual tax treatment used for those amounts. Hydro One Brampton accounted for these as items that are not trued up in the TaxRec3 tab of the SIMPIL models for each year from 2001 to 2005.[107]"*

As discussed previously, the above statement appears to be inaccurate as Hydro One Brampton has not excluded the recoveries that it recorded in account 1590 in the calculation of the deferred PILs 1562 balance.[108] Hydro One Brampton has placed great emphasis on the use of the word 'interim' in Board documents, and argues that this indicates such a degree of doubt in relation to it being allowed to retain the money, that the full amount collected ($6,601,566 plus interest) by the end of 2005 should be impaired or reserved in the tax returns, which would lead to higher taxable income in its SIMPIL filing and therefore a higher residual balance in account 1562.

As part of the process established by the Board for the remaining distributors to review and dispose of their regulatory assets balances on a final basis, distributors had the option of undergoing a "minimum review" by voluntarily choosing to forgo 10% of their claimed regulatory asset balances for transition costs as of December 31, 2004. In response to undertaking J1.14, Hydro One Brampton disclosed that it voluntarily wrote off only $158,078 before December 31, 2004 in order to apply for the Board's minimum regulatory asset review. In Board staff's view, this reflects the company's determination of its risk with regards to its total regulatory asset balance of $13,801,449[109] as of December 31, 2004. Specifically, Board Staff submits that this indicates that Hydro One Brampton's expectation was that it would collect all of its regulatory assets balances except for $158,078. Hydro One Brampton knew the scope of its exposure on December 9, 2004, the date that the Board issued its decision pertaining to the recovery of

[106] Exh9/Tab1/Sch5.0/Pg3 September 30, 2010
[107] Response to Board staff IR # 63
[108] Tr. Technical Conference October 13, 2010 pg161/ln21 to pg164/ln1
[109] December 6, 2010 K1.6 Board Staff PILs Compendium/pg76

regulatory assets phase 2.[110] Board staff notes that Hydro One Brampton did not file its 2004 tax returns with the government until June 15, 2005[111] and its 2004 RRR SIMPIL model with the Board until July 2005. Hydro One Brampton's argument concerning doubt is not supported by its evidence since it wrote off only $158,078 in 2004 and filed the 2004 tax returns almost six months later.

From Hydro One Brampton's 2003 audited financial statements dated March 15, 2004, in Note 2 under Rate-setting on page 7 (similarly in note 2 of the 2002 unaudited financial statements) the following management comment can be found.

> *The Company continually assesses the likelihood of recovery of each of its regulatory assets and believes that it is probable that its regulatory assets will be factored into the setting of future rates. If future recovery through rates is no longer considered probable, the regulatory assets will be adjusted to reflect the appropriate carrying amount in the period that the assessment is made.*[112]

Hydro One Brampton's management made these positive comments shortly after Bill 210 came into force when there may have been a legitimate concern about the recoverability of regulatory asset balances. The Minister's 2003 letter virtually eliminated any reservations that collection of regulatory asset balances was in doubt, and the Board's swift and positive actions thereafter supported that point.

Board staff submits that there was very little doubt that Hydro One Brampton was not going to retain the $6.6 million of recoveries already collected by the end of 2005 out of a total regulatory asset receivable of $13,801,449.

Board staff submits that the Board should insist that Hydro One Brampton includes the negative SIMPIL entries related to tax deductions of regulatory assets from 2001 through 2005 or removes the impact of the recoveries of regulatory assets (amounts recorded in account 1590) in its SIMPIL calculations and reconciliations that true up to ratepayers.

Interest Expense Clawback

The Board introduced the interest clawback methodology as part of its RRR SIMPIL filing requirements in 2002. Since the introduction of this measure, Board staff is not aware

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[110] RP-2004-0117/0118/0100/0069/0064 Chapter 10, paragraphs 10.0.9 to 10.0.17

[111] IRR evidence filed in answer to staff interrogatory #57/App.Q/Part 2B pdf pg 135/Part 2C pdf pg 16

[112] IRR evidence filed in answer to staff interrogatory #57 Part 2B pdf pg118

that any distributor challenged the validity of this mechanism in the filing of their RRR SIMPIL reconciliations from 2002 through to 2006, when the last filing was required.

A distributor could deduct interest in the determination of taxable income when filing its tax returns with the government, its PILs proxies in rates, and its SIMPIL reconciliation. The higher the interest expense deduction, the lower the income tax PILs paid to the government or the lower PILs recovered in rates will be. The interest deduction used in the determination of the 2002 PILs rate proxy was the Board's deemed interest calculation that reflected the second tranche of market adjusted revenue requirement ("MARR") for most distributors.

Excess interest appears in the SIMPIL true-up calculations as a deduction or refund to customers. The logic is that the deemed interest was used to calculate the PILs rate proxy. Therefore, when the distributor deducted the higher actual interest expense in its tax returns it paid less tax than it collected from its customers. Had the distributor used the actual interest expense in its rate application, the PILs rate proxy charged to customers would have been lower. The SIMPIL excess interest clawback calculation resulted in recording in Account 1562 the tax effect of the amount by which a distributor's actual interest expense was in excess of the deemed interest rate for the full implementation of MARR.

Hydro One Brampton is arguing that the clawback not apply at all in its case thus increasing the residual amount in 1562 that is recoverable from customers in the amount of $4.3 million[113]. In its applications from 2002 to 2005, had Hydro One Brampton used its higher actual interest expense in the determination of its annual PILs rate proxies, instead of the lower deemed interest expense, Hydro One Brampton's distribution rates charged to its customers would have been lower. In the 2006 EDR Handbook, the interest clawback evolved in order to allow distributors to choose the higher of actual or deemed interest expense in the calculation of the amount of the clawback, if any. In its AIC on page 9, Hydro One Brampton states that in relation to this evolution, *"Clearly, the Board recognized this deficiency, and Hydro One Brampton therefore submits that the PILs interest clawback feature of the SIMPIL models for 2001 through 2005 should be excluded from the true-up calculations to determine its balance of the 1562 – Deferred Payment in Lieu of Taxes account."*

[113] AIC/ p. 7

Board staff disagrees with the interpretation of this evolution. In chapter 7 of the 2006 EDR Handbook, the Board maintained the clawback methodology but provided a choice of the threshold above which the clawback would still apply. Board staff notes that this change to the threshold, while potentially changing the amount of a clawback used in the 2006 rate application for a distributor, did not change the level of the threshold or the clawback methodology as it applied to the SIMPIL calculations for the pre-2006 period. In the combined proceeding, the Board accepted the settlement agreement in which the clawback penalty is maintained for the period 2001 to 2005.

In Hydro One Brampton's case, the difference between the actual interest expense and its deemed interest expense is $6.3 million for the period 2001 to 2005. Therefore, Hydro One Brampton calculated the tax impact of the clawback (to be recorded in the variance account balance in 1562) as $4.3 million including interest. The excess interest was reported in Hydro One Brampton's original annual SIMPIL filings. In its current application, Hydro One Brampton recalculated its SIMPIL spreadsheets to remove the impact of the clawback, thereby increasing the residual balance in account 1562 by $4.3 million.[114]

It has always been open to a distributor to file an application in a manner that does not comply with the Board's application filing guidelines if it can justify the specific rate treatment it prefers when arguing its case before the Board. Application filing guidelines are not the final decision of the Board.

One example of a different filing position that was put forth by an applicant is the sharing of the capital tax threshold (i.e. deduction in the computation of the federal large corporation tax and Ontario capital tax). The 2002 filing guidelines stated that the stand-alone principle would apply, and 100% of the threshold should be allocated to the regulated distributor even though it might have had affiliated or associated companies. The Ontario tax rules required that the threshold be allocated among the companies in the corporate group based on taxable capital. The federal large corporation tax required an allocation of the threshold to be elected by the taxpayer. The regulated utility, in this example on the federal deduction issue, could receive 100% of the deduction. Some distributors had other regulated affiliates where both were owned by the same parent. They applied to the Board and received the approval to allocate the thresholds for

[114] SIMPIL model spreadsheets for 2001-2005 filed on October 4, 2010

ratemaking in the same manner as they did on the actual tax returns, notwithstanding the opposite view posited by the Board's filing guidelines.

Hydro One Brampton did not apply in the period 2002 to 2005 to have its interest expense treated in a way that it now considers to be the appropriate method. That is, ignore the interest expense higher than the Board's deemed for the annual SIMPIL reconciliations.

In the Board's current combined PILs proceeding, the parties dealt with the excess interest issue. Halton Hills Hydro Inc. settled the issue with the intervenors. PowerStream Barrie did not have the issue in its evidence but PowerStream (South) stated that it intends to bring forward its own evidence in a future application to argue the merits of its own circumstances.[115]

Hydro One Brampton has provided evidence in this proceeding to challenge the applicability of the Board's SIMPIL true-up methodology to Hydro One Brampton's situation. However, Hydro One Brampton agreed that the interest clawback mechanism has been part of the SIMPIL model methodology since 2002.[116]

Hydro One Brampton provided evidence updates on September 30, 2010.[117] In this evidence Hydro One Brampton listed four principal reasons why it believes that the clawback is not just and reasonable.

- The capital structure of 55% debt and 45% equity was created in a manner consistent with other subsidiaries of the parent and consistent with the public prospectus released by the parent. Unlike many other distributors, Hydro One Brampton is part of a larger family of companies.

- The Company is unique in that push-down accounting was used to record $60 million of goodwill, and the debt and equity amounts were based on balance sheet values including goodwill. Debt values for rate-making purposes rarely equate to balance sheet values.

[115] December 6, 2010 K1.6 Board Staff PILs Compendium/pg1-36/ Issue 13
[116] Response to Board staff IR # 65 (b)
[117] September 30, 2010 Exh9/Tab1/Sch5.0/pg1-2

- The Company experienced significant growth during the years the clawback was calculated, thereby requiring debt levels to rise to fund a portion of the capital investment required.

- There was no customer impact as a result of the capital structure adopted by the Company: the distribution rates paid by customers were not affected.

In its AIC Hydro One Brampton did not refer to the pushed-down goodwill of $60 million as a factor in creating the higher interest expense deduction. However, in answer to interrogatories, questions at the Technical Conference, and testimony in the oral hearing, Hydro One Brampton maintained that the $60 million of goodwill was a major cause of the excess interest above the Board's deemed interest calculated in the 2002 rate application.

At the oral hearing, Hydro One Brampton provided an analysis of its balance sheets from 1999 to 2009.[118] In this analysis it shows how the balance sheet changed in 2001 when the goodwill was pushed down and the company was then refinanced by Hydro One Inc. Hydro One Brampton also replied to SEC that the underlying driver of the clawback is the effect of push-down accounting for goodwill.[119]

From Hydro One Brampton's evidence the excess interest above the Board's deemed interest amount were: in 2001, zero; in 2002 $1,702,356; in 2003, $1,497,580; in 2004, $1,758,591; and in 2005, $1,390,349.[120] The grossed-up tax impact of the claw-back filed by Hydro One Brampton including the applicable interest carrying charges is $4,347,685.[121]

Using the capital structure of 55% debt, the goodwill amount of $60,060,000 and the debt rate of 6.95% one can compute an annual interest impact of $2,295,794 caused by the goodwill.[122] It appears that the excess interest is directly attributable to the pushed-down goodwill since the annual interest caused by refinancing for goodwill on the balance sheet is greater than the annual amount of excess interest shown above. Expressed another way, if the goodwill was not on Hydro One Brampton's balance sheets for 2001

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[118] December 6, 2010 K1.6 Board Staff PILs Compendium/pg119
[119] Response to SEC IR # 40 (b)
[120] SIMPIL model TAXCALC spreadsheets for 2001-2005 filed on October 4, 2010
[121] AIC/pg7/Table
[122] 55% x $60,060,000 x 6.95% = $2,295,794

through 2005, there would have been lower interest expense and no excess interest to be clawed back.

While Board staff accepts that significant growth may be a valid consideration in the Board making exceptions to the applicability of the clawback rule since distribution rates were based on 1999 financial statements, Board staff does not hold the same view for the treatment of the goodwill amount noted by the applicant. Board staff submits that the $60 million of goodwill could have been retained by the parent company, Hydro One Inc., on its balance sheet and not pushed down to Hydro One Brampton. Canadian GAAP in 2001 did not insist that push-down accounting be applied.

In its actual 2009 financial statements, Hydro One Brampton wrote off the goodwill of $60 million.[123] As noted earlier in this submission, since 2001, Hydro One Brampton has deducted higher interest expense in its tax returns and enjoyed the benefits of paying lower income tax PILs to the government.

Hydro One Brampton did not challenge the Board's PILs and SIMPIL methodology with respect to the interest clawback penalty during the period 2002 through April 30, 2006. In fact, Hydro One Brampton filed its applications during this period in accordance with the Board's filing guidelines.

Board staff submits that Hydro One Brampton has not adequately demonstrated why the Board should completely abandon its long-held policy reflected in the interest clawback penalty. If Hydro One Brampton had demonstrated that the majority of the excess interest was due to the incurrence of higher debt levels to fund growth, then Board staff would not be opposed to the Board considering some reduction of the clawback penalty amount in Hydro One Brampton's application. But it appears from the evidence that this was not the case, since financing the pushed-down goodwill was the cause of the higher actual interest expense deducted in the tax returns. In the combined proceeding, Halton Hills and the parties reached settlement to reduce the maximum clawback penalty amount based on Halton Hills' unique set of facts in its application, but did not propose to change the clawback methodology itself.

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[123] Tr. Vol.1 December 6, 2010/pg168 ln7-27

Disposition of Deferred PILs Account 1562

Depending upon the Board's decision on the two SIMPIL issues discussed above, Hydro One Brampton may have a credit balance in account 1562 to refund to customers.

In the top section of the chart below, Hydro One Brampton's explanation of the impact of the two issues appears. Board staff has shown how the balance might change depending on the Board's view of the two issues in the lower section. Board staff cautions that the SIMPIL worksheets may have to be updated and run again to reflect the Board's findings on these issues.

Interest clawback	$ 4,347,685
Bill 4 *(regulatory asset recoveries recorded in account 1590)*	$ 4,086,573
Proxy vs Entitlement & Other True-Ups	$(2,841,943)
Balance applied for in account 1562	$ 5,592,315[124]
If the Board maintains the interest clawback penalty	$(4,347,685)
Adjusted balance in account 1562	$ 1,244,630
If the Board also denies the use of the recoveries in account 1590	$(4,086,573)
Adjusted balance in account 1562 before recalculation of SIMPIL worksheets	$(2,841,943)

The Board's final decision on the combined proceeding for all issues will not be issued until after the due date for the decision in the instant proceeding. However, the two specific issues discussed previously were part of the settlement approved by the Board.

The following are options the Board may with to consider in proceeding with this component of Hydro One Brampton's 2011 rate application.

1. The Board in the instant proceeding could make final determinations on the two issues addressed in this submission and dispose of the balance in account 1562 (either a debit or credit depending on the findings on the two issues) on an interim basis pending the outcome of the combined proceeding on the remaining issues. At that time, Hydro One Brampton would file for final disposition and the Board

[124] AIC/pg7/Table

would not revisit the two issues decided in the instant proceeding but rather would limit its review to ensuring that Hydro One Brampton has incorporated the final methodology approved by the Board for the remaining issues.

2. The Board in the instant proceeding would not allow disposition at all pending the outcome of the combined proceeding but still make determinative findings nonetheless on the two issues addressed in this submission. Following the completion of the combined proceeding, Hydro One Brampton would then flow the outcomes of these two issues into its application for final disposition of account 1562 once the Board has established the final methodology for calculating account 1562. Hydro One Brampton would also be expected to follow the Board's methodology on how it treats all applicable remaining issues.

Either way, it is Board staff's view that there is sufficient information on the record of this proceeding for the Board to make a final determination on these two distinct issues.

If the Board does not prefer interim disposition of a possible credit balance because of doubt of the impact of the combined proceeding, then option two may be the appropriate approach to take. It is Board staff's view however, that the impact of the remaining issues on the final quantum for Hydro One Brampton will be limited and not very material.

Hydro One Brampton has requested that the average distribution revenue shares by customer class from 2002 to 2005 should be used to allocate the residual amount to rate classes.[125] Hydro One Brampton proposes to recover the allocated amounts using the variable charge or volumetric rate component.[126] Board staff submits that this is reasonable and follows prior guidance from the Board.

Hydro One Brampton has asked for a two year disposition period. Board staff submits that the rate rider associated with the residual balance should be derived for only one year in the event that there is a reduction in the total balance requested by Hydro One Brampton and in the event that the Board proceeds with disposition at this time.

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[125] JT 1.20
[126] Response to Board staff IR # 73 (e)

Smart Meters

Background

Hydro One Brampton has installed 125,192 Smart meters as of the end of 2009. This represents 93.7% of the total number of smart meters. Hydro One Brampton is requesting:

1. Disposition of all capital and operating costs to the end of December, 2009;
2. a 12 months Disposition Rate Rider of $0.54/month[127] to dispose of the smart meter variance accounts which will recover the difference between the revenue requirement and the actual revenue collected to the end of 2009;
3. an adjustment of its Smart Meter Funding Adder from $1.00/month to $1.01/month[128] to cover the additional investments of its smart meters in 2010 and 2011 and the revenue requirement in 2010 for the investments to the end of 2009.

Discussion and Submission

Disposition of capital and OM&A costs

In response to a Board staff interrogatory, Hydro One Brampton documented that the capital cost per smart meter and OM&A cost per smart meter net of depreciation for 2006 to 2009 are $164.87 and $21.69 respectively. On a combined basis of capital and OM&A costs, the cost per installed smart meter is $186.56. Board staff notes that in the Board's Decision in the combined smart meter proceeding (EB-2007-0063), the total capital and OM&A cost per installed smart meter for Hydro One Brampton was $148.04. In the Technical Conference[129], Hydro One Brampton explained that the increase in terms of per installed meter was due to high capital costs for the small industrial/commercial meters, development IT costs and maintenance costs associated with failed meter bases that arose subsequent to the combined smart meter proceeding.

In 2007, Hydro One Brampton focused on deploying smart meters for residential customers and to the area with least number of expected failed meter bases. Subsequently Hydro One Brampton deployed smart meters to locations harder to reach,

[127] Response to VECC IR # 63 (c)
[128] Response to VECC IR # 63 (a)
[129] Tr. Technical Conference, p.149-152

or where higher number of failed meter bases materialized and where there were more expensive and complex meters for small industrial or commercial customers. Board staff takes no issue with Hydro One Brampton's documented costs for smart meters installed up to 2009. Board staff also notes that the corresponding capital costs have been included in rate base.

Smart Meter Disposition Rate Rider

Hydro One Brampton proposes a 12 month Disposition Rate Rider of $0.54/month to recover the revenue requirement over the 2007 to 2009 period of smart meters installed up to 2009. The Disposition Rate Rider also takes into account the actual revenue collected to the end of 2009 through the Smart Meter Funding Adder. The net result is a recovery amount of $851,845 that would be recovered over the January 1, 2011 to December 31, 2011 period.

Board staff notes that the smart meter costs incurred to the end of December 2009 have been audited by KPMG. Board staff has no concerns on the proposed Smart Meter Disposition Rate Rider.

Smart Meter Funding Adder

Hydro One Brampton is requesting an ongoing Smart Meter Funding Adder of $1.01/month to cover additional investments in smart meters in 2010 and 2011 as well as the revenue requirement for 2010 for the smart meters installed up to 2009 (the "2010 stub period").

Board staff observes that the current proposal for the Smart Meter Funding Adder includes recovery of costs for the stub period.

Board staff notes that in the Board's Decision ("EB-2010-0209") for PowerStream Inc. ("PowerStream"), the Board approved the inclusion of the 2010 stub period in the recovery of the residual variance account balance. The Board stated:

> *……while the Board would prefer to keep the entire 2010 stub period revenue requirement separate from the Disposition Rate Rider amounts, the Board will accept combining both into one rate rider. This would seem the most practical approach for implementing recovery of the residual balance for this particular*

case, rather than establishing a separate rate rider to recover the amounts for just the 2010 stub period.[130]

Board staff also notes that audited financial statements are not yet available to support the level of the 2010 stub period amounts. However unlike PowerStream, Hydro One Brampton's 2010 stub period OM&A amount is substantially higher than its 2009 OM&A amount. Board staff submits that the 2010 stub period amount should not be disposed and should be tracked in the existing smart meter deferral and variance accounts until it can be supported by audited financial statements.

Board staff submits that the Board may wish to consider discontinuing the Smart Meter Funding Adder. The funding adder was intended to provide funding for the smart meter deployment as directed by Provincial Government and to help smooth future rate impacts. Hydro One Brampton has installed 93.7% of the total number of smart meters. Hydro One Brampton's smart meter deployment is going to be completed in 2011. If Hydro One Brampton has concerns about cost pressure due to the financing of the additional investment for 2010 and 2011, Hydro One Brampton may consider filing an application for prudence review as early as 2012 once the audited financial statements to the end of 2011 are available. At that time a Smart Meter Incremental Revenue Requirement ("SMIRR") could be approved to recover the proxy revenue requirement for smart meters installed in 2010 and 2011, which would be effective until the next rebasing rate order.

<u>Stranded Meters</u>

In its Decision in the combined smart meter proceeding (EB-2007-0063), the Board noted that the installation of smart meters means that older meters will be retired earlier than planned and the costs associated with the retired meters will not have been fully depreciated. In response to undertaking JT 1.19, Hydro One Brampton provided the following table of the estimated Net Book Value of the Stranded Meters.

[130] Decision (EB-2010-0209), p.8-9

Table 20

Stranded Meter Capital - Continuity Schedule					
Year	Stranded Meter Assets Added	Cumulative Stranded Meter Additions	Change in Accumulated Depreciation	Cumulative Stranded Meter Depreciation	Net Book Value
2006		$ -		$ -	$ -
2007	$ 688,720.09	$ 688,720.09	$ (180,826.97)	$ (180,826.97)	$ 507,893.12
2008	$ 2,011,119.65	$ 2,699,839.74	$ (1,112,328.23)	$ (1,293,155.20)	$ 1,406,684.54
2009	$ 2,187,466.26	$ 4,887,306.00	$ (1,190,667.33)	$ (2,483,822.53)	$ 2,403,483.47
2010	$ 1,000,000.00	$ 5,887,306.00	$ (890,000.00)	$ (3,373,822.53)	$ 2,513,483.47
2011	$ 500,000.00	$ 6,387,306.00	$ (738,000.00)	$ (4,111,822.53)	$ 2,275,483.47

The above table shows that the net book value of stranded meter capital as of December 31, 2009 is $2,403,483.47. In its application, Hydro One Brampton states that its stranded meter costs to the end of 2009 will remain in rate base[131].

As indicated in the background above, Hydro One Brampton is requesting disposition of all smart meter capital costs recorded in Account 1555 and operating costs recorded in Account 1556 to the end of December 2009. As a result, the unamortized smart meter capital costs will be transferred from Account 1555 to rate base.

Given that Hydro One Brampton has almost completed its smart meter installation program and most of its smart meters will be included in rate base, Board staff submits that this application should also address an appropriate recovery mechanism for recovering the stranded costs.

Hydro One Brampton proposes to retain the costs in rate base. In its combined decision[132], the Board indicated that stranded meter costs should remain in rate base. However, the combined decision was issued several years ago at a time when the deployment of smart meters was only at an early stage and the full impacts of the stranded meter costs were largely unknown. In the current situation, as the distributor will be receiving rate base treatment on most of its smart meters that have replaced its "stranded" meters, Board staff submits that it may no longer be appropriate for the distributor to receive a concurrent rate base treatment for stranded meters that are no longer used and useful.

[131] Exh.9/Tab3/Sch1.1/p.7
[132] Decision, EB-2007-0063, p.16

Board staff submits that at this time, a simpler and more appropriate approach from an accounting perspective for recovery of stranded meters may be to allow recovery of the estimated residual net book value of the overall stranded meters. The estimated amount should comprise the pooled residual net book value of the removed from service meters, less any sale proceeds and contributed capital, to the time when smart meters would have been fully deployed (e.g., as of December 31, 2011 or earlier). The total estimated stranded costs of $2,275,483.47 as of December 31, 2011 could be allowed to be recovered through a separate rate rider. If this proposal is adopted by the Board, Hydro One Brampton should revise this estimate to the end of 2011 to reflect the derivation of the amount discussed above and to reflect information that is more current. Hydro One Brampton may wish to suggest a recovery period, for example, either two years (which would coincide with the remaining deferral and variance accounts recovery period proposed by the applicant) or four years should the bill impacts be too high.

Board staff also submits that the estimated total costs related to the stranded meters in rate base on approval for recovery be removed from rate base (and Account 1860, Meters) and tracked in “Sub-account Stranded Meter Costs” of Account 1555. The associated recoveries from the separate rate rider should also be recorded in this sub-account to draw down the balance in the sub-account. The approved estimate of stranded meter costs should be trued-up to actual costs, recorded in the sub-account, and submitted for review in the distributor’s next cost of service application. A final disposition of the sub-account balance (comprised of the final stranded meter costs as of December 31, 2011 net of the rate rider recoveries) would be addressed in that proceeding.

Board staff invites parties to comment on the recovery methodology for the stranded meter costs, the proposed recovery period, and the associated bill impacts.

LOST REVENUE ADJUSTMENT MECHANISM (“LRAM”) / SHARED SAVING MECHANISM (“SSM”)

Background

Hydro One Brampton is seeking LRAM and SSM recovery of $2,395,597 ($1,850,549 for LRAM, $86,609 for carrying charges and $458,438 for SSM), to be recovered over two years. The third-party review of the LRAM and SSM calculations is provided in Exhibit 10/Tab 1/Schedule 2.1Appendix K. In response to VECC Interrogatories, Hydro One

Brampton indicated that it inadvertently filed an outdated third-party review and provided a revised version in Appendix AE.

Discussion and Submission

The Board's Guidelines for Electricity Distributor Conservation and Demand Management (the "Guidelines") issued on March 28, 2008 outlines the information that is required when filing an application for LRAM or SSM.

Board staff submits that Hydro One Brampton's application for LRAM and SSM recovery is consistent with the Board's Guidelines.

- All of which is respectfully submitted -