North Bay Hydro Distribution Ltd.
2011 IRM3 Distribution Rate Application
D. D. Rennick Submission
Board File No. EB-2010-0102

North Bay Hydro Distribution Ltd. (NBHDL) filed a distribution rate application (EB-2010-0102) with the Ontario Energy Board seeking approval for changes to the distribution rates that North Bay charges for electricity distribution, to be effective May 1, 2011.

The following is to provide the Board with my submissions regarding Shared Tax Savings issue in the application. I have reviewed the Board Staff's submission regarding this issue.

Shared Tax Savings

In its reply to my interrogatory regarding the fact that only 50% of the estimated tax savings were being passed on to ratepayers, NBHDL indicates that it is relying on chapter 3, page 23 of the OEB publication "Filing Requirements for Transmission and Distribution Applications" and on the "Supplemental Report of the Board on 3rd Generation Incentive Regulation for Ontario's Electricity Distributors (EB-2007-0673)" both of which appear to rely on the Board's decision on tax risk management in the Enbridge EB-2007-0606/615 application.

Submission

1. The Enbridge case dealt with a privately owned company with shareholders who, as a group, are a substantially different group than the group containing Enbridge customers. The net effect of this fact is that any decrease in the amount of tax savings passed on to ratepayers affects the shareholders positively and the customers negatively. Whereas, in the case of NBHDL, since customers and shareholders are essentially the same group of people any decrease in the amount of tax savings passed on to ratepayers affects both shareholders and customers negatively. In other words, shareholders cannot achieve a benefit

without it being offset by a loss of an equal amount because they are the ones paying for the benefit they are receiving. In my opinion, this leads to a need for a lesser reliance on the Enbridge decision in this case.

2. The Board's decision on the tax savings issue relied on the fact that a suggestion was made the corporate taxes affect the rate of inflation and therefore since the rate of inflation was already factored into the rate making process the tax issue was already taken into account. I am not convinced that corporate taxes have a direct effect on inflation and it there was certainly no agreement in the Enbridge decision what the effect was or if there was an effect how long and to what extent the effect was an issue. The primary cause of inflation is an increase in the money supply and not indirect taxes. Germany, where the tax rates are the highest in the world, has had an inflation rate that has been substantially lower than Canada's over the last decade.
3. The Board's decision to split any tax savings between the applicant and the intervenors in the Enbridge case appeared to be based on the fact that in the Board's opinion neither party could provide definitive evidence for either case. In my opinion, the issue of should have revolved around the point that intervernors made that as a matter of general regulatory principle consumers should be no worse off under an IR plan than they would be under a cost of service regulation.
4. This question arises because there was a tax savings to be passed on to ratepayers and I think everyone would agree that if there had been tax increases over the past few years, applicants would be adding 100% of the tax increase. In every application, every hint of or possibility of an increase in costs is immediately applied to rates. It seems ludicrous that the Board would now consider allowing only 50% of a quantifiable savings to be passed on to customers.

5. The question of taxes arises only because the OEB has allowed LDC's to add imputed interest amounts and return on investment to the rate they charge for delivery. The solution to the whole issue is to discontinue the practice of charging ratepayers for interest and returns on investment when, as indicated above, in order to receive these "benefits" they must provide the amounts through increased rates and then be penalized by having to give a huge portion taxed away.
6. The Board staff has indicated that they will revise the 2011 IRM Shared Tax Savings Work form. It appears to me that the total tax savings will be $303,872 over the four years calculated as shown below by applying the effective tax rate to 2010 taxable income and comparing that to tax rates proposed in subsequent years. For the reasons indicated above the total tax savings should be applied to reduce rates.

Summary - Sharing of Tax Change Forecast Amounts

1. Tax Related Amounts Forecast from Capital Tax Rate Changes

	2010	2011	2012	2013	2014
Taxable Capital	$44,105,306	$44,105,306	$44,105,306	$44,105,306	$44,105,306
Deduction from taxable capital up to $15,000,000	$15,000,000	$15,000,000	$15,000,000	$15,000,000	$15,000,000
Net Taxable Capital	$29,105,306	$29,105,306	$29,105,306	$29,105,306	$29,105,306
Rate	0.150%	0.000%	0.000%	0.000%	0.000%
Ontario Capital Tax (Deductible, not grossed-up)	$ 21,650	$ -	$ -	$ -	$ -

2. Tax Related Amounts Forecast from Income Tax Rate Changes

	2010	2011	2012	2012	2012
Regulatory Taxable Income	$ 2,313,637	$ 2,313,637	$ 2,313,637	$ 2,313,637	$ 2,313,637
Corporate Tax Rate	28.72%	28.25%	26.25%	25.50%	25.00%
Tax Impact	$ 664,477	$ 653,556	$ 607,307	$ 589,885	$ 578,409

Tax Related Amounts Forecast from Capital Tax Rate Changes	$ 21,650	$ -	$ -	$ -	$ -
Tax Related Amounts Forecast from Income Tax Rate Changes	$ 664,477	$ 653,556	$ 607,307	$ 589,885	$ 578,409
Total Tax Related Amounts	$ 686,126	$ 653,556	$ 607,307	$ 589,885	$ 578,409
Incremental Tax Savings		-$ 32,570	-$ 78,820	-$ 96,241	-$ 96,241
Sharing of Tax Savings (50%)		-$ 16,285	-$ 39,410	-$ 48,121	-$ 48,121