EB-2010-0139

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

AND IN THE MATTER OF an application by Norfolk Power Distribution Inc. for an order approving just and reasonable rates and other charges for electricity distribution to be effective May 1, 2011.

REPLY SUBMISSION OF NORFOLK POWER DISTRIBUTION INC.

ON THE PRELIMINARY ISSUE

DELIVERED JANUARY 31, 2011

Background

Norfolk Power Distribution Inc. ("NDPI" or "the Applicant") filed a cost of service application with the Ontario Energy Board (the "Board"), on October 29, 2010, seeking approval for changes to distribution rates, effective May 1, 2011 (the "Application"). The Board assigned the application File Number EB-2010-0139.

On December 16, 2010, the Board issued Decision & Procedural Order No. 1, in which it determined that it would consider NPDI's Application for early rebasing for 2011 distribution rates (the "Preliminary Issue") in advance of further procedural steps. Two intervenors (Energy Probe and VECC) and Board Staff submitted interrogatories, to which NPDI responded on January 11, 2011. On January 21, 2011 intervenors (Energy Probe, VECC and SEC), and Board Staff filed submissions based on NPDI's Application and responses to interrogatories on the Preliminary Issue.

This is the final submission of NPDI on the Preliminary Issue.

Structure

This reply argument responds to the arguments submitted by parties in the proceeding on the Preliminary Issue. It is structured along the reasons for early rebasing advanced by NPDI in its

Application and responded to by the parties in their submissions. NPDI's main submission, in addition to its responses to certain specific issues raised by intervenors, is set out at the end of the document in the section on "Totality".

In short, NPDI submits that from the totality of the record in this case it is reasonable for this Application to proceed at this time, and that the Board should so find. Board staff submitted that the Board could choose the option of hearing the Application in this case. For all of the reasons for rebasing provided on the record of this Application and in this submission, NPDI respectfully submits that the conclusion can only be that on the totality principle espoused by the Board in reviewing requests for early rebasing, NPDI has justified proceeding with the hearing of this 2011 Cost of Service Application.

The order of this reply submission is as follows:

1. Intent
2. Earnings Off-Ramp
3. Rate Stabilization
4. Prior Board Decision
5. Rate Application Efficiency
6. Totality

Intent

On February 19, 2010 NPDI wrote to the Board to inform it of its intent to file a cost of service rate application for new rates effective May 1, 2011 on the reason that phase two of its transformer station was completed. That letter has been produced in evidence in this Application (appended to the response to Energy Probe's interrogatory #5).

On February 22, 2010, in its final submission in respect to its 2010 IRM proceeding, NPDI asked for a certain regulatory treatment with respect to the disposition of 2008 deferral and variance account balances, grounding that request on its plan to file a cost of service application for 2011 rates. (NPDI Final Submission, EB-2009-0238, February 22, 2010 p6-7). Specifically, NPDI wrote:

> "Also, as Board Staff indicated volatility in electricity bills will result if the disposition is carried out over one year. NPDI recently notified the OEB of its intention to submit a Cost of Service application later this year for rates effective May 2011. It is expected that this application will result in an increase in distribution rates as a result of an expected increase in the proposed 2011 rate base of 15%, compared to the approved 2008 rate base which was based on a cost of service application in that year. Also as part of the application NPDI will be seeking approval to recover a return on its installed smart meters, which exceeds 95% completion at the time of this submission, as well as approval to recover stranded assets of approximately $1.3M. NPDI submits that disposing of the Group 1 accounts over one year in 2010, followed by a rate increase in 2011, which may also include the recovery of stranded assets, will create considerable volatility in customer's rates.
>
> NPDI submits a more practical approach may be to use a two year disposition plan with 25% of the Group 1 accounts being disposed of in 2010 and the remaining 75% being disposed of in 2011 which would be a Cost of Service year for NPDI. This would assist in mitigating the rate increases occurring in that year while returning funds to customers in a shortened time period from that originally applied for."

On April 20, 2010 NPDI received a letter from the OEB, addressed to all Licensed Electricity Distributors, regarding early rebasing applications.

As a result of the Board's April 20, 2010 letter, on May 31, 2010 NPDI wrote to the Board confirming its plan to file a 2011 cost of service application. NPDI noted in that letter that based on changes to its rate base and distribution revenue since it last rebased in 2008, it will meet the criteria for an "off-ramp" provision in 2011, on a forward test year basis.

Based on this history, it is clear that NPDI's intention to file a cost of service application for 2011 rates was made prior to the Board's April 2010 letter, on two separate occasions, and further confirmed subsequent to the Board's letter.

Earnings Off-Ramp

In its letter May 31 2010 letter to the Board confirming its intention to file a cost of service application for 2011 rates, NPDI stated the following:

> "NPDI wishes to confirm that based on changes to its rate base and distribution revenue since it last rebased in 2008, it will meet the criteria for an "off-ramp" provision, earning less than its approved ROE, by more than 300 bps for the year 2011. On this basis NPDI

> wishes to confirm its intent to file a Cost of Service application in August 2010 for new rates effective May 1st 2011."

Between the time of the letter and the filing of the Application, revisions to expected expenditures in 2011 reduced the ROE deficiency, so that the difference between the projected ROE of 5.61% (NPDI Application, EB-2010-0139, Exhibit 1, Tab 2, Schedule 1, page 8) and the Board 8.57% approved ROE underpinning current rates is 296 basis points.

The low ROE anticipated for 2011 is primarily the result of NPDI's rate base having increased 21% (NPDI Application, EB-2010-0139, Exhibit 1, Tab 2, Schedule 1, page 9) from the last rebasing and this substantial increase not being recovered in current rates.

Parties argue that the off-ramp was meant to be triggered based on actual financial results. NPDI does not dispute that this is what the Board's policy says. However, the Board did not appear to have restricted itself to historical years in the Hydro Ottawa Decision (EB-2010-0133). At pages 10-11 of that its October 27, 2010 Decision, it is clear that the Board was considering whether the threshold was approached not only in historical years, but also in test years. Specifically, the Board wrote:

> "The Board finds that although these are reasons why a distributor might want to come in early for rebasing, none of these, either singly or taken together, justify why Hydro Ottawa could not stay on the IRM framework in setting rates for another year. To the contrary, the evidence has shown that Hydro Ottawa has performed very well financially throughout the IRM plan, having achieved an actual ROE for 2009 of 10.7% and a projected ROE for 2010 of between 8.9% and 9.3%. Hydro Ottawa projects a ROE for 2011 of 6.52%, which Energy Probe submits ought to be adjusted to 6.7%. Even without the adjustment, the return does not approach the off-ramp of 300 basis points as measured against the Board approved return on equity of 8.57% included in 2008 rates. From a financial perspective then, the Board finds that Hydro Ottawa has not justified the need to terminate the IRM plan early."

The projected 2011 ROE in the Application is 5.61%. The current ROE underpinning the company's rates is 8.57%, a difference of 296 basis points. This is only 4 basis points from what is the level required for off-ramp to be met, and unlike in the Hydro Ottawa application, NPDI's projected ROE clearly does "approach the off-ramp of 300 basis points as measured against the Board approved return on equity of 8.57% included in 2008 rates." While the off-ramp threshold has not being technically met, it has been substantially met, since it is only 4 basis points away from the 300 basis points threshold.

Energy Probe and VECC cite NPDI's response to an interrogatory by Board Staff to state that the projected ROE is "misleading"; that it is really higher than 5.61% if smart meters are removed from the application. NDPI does not dispute that if smart meters are removed from the 2011 filing the forecast 2011 ROE will be higher. If the Board were persuaded to remove the costs of smart meters from the filing for purposes of calculating the 2011 ROE, the off-ramp may become less of a consideration in the Board's assessment.

However, NPDI submits, and as it expands on its submission under "Totality", that this should not be fatal to the decision whether or not the Board should hear the Application, as the Board should be considering the totality of the reasons for a 2011 cost of service review.

Moreover, in allowing Horizon Utilities' application to proceed, the Board did so notwithstanding its finding that Horizon Utilities did not meet the off-ramp earnings threshold.

Rate Stabilization

With the completion of NPDI's transformer station in 2010, NPDI's transformation services charges have declined. This would result in a significant reduction in Retail Transmission Connection rates charged to customers. By this cost of service Application, NPDI was attempting to implement those savings for its customers now.

Board staff noted that while the Board's preference has been to maintain a mechanistic approach to adjusting Retail Transmission Service ("RTS") rates in the IRM process, the Board's approach to adjusting RTS rates is not limited to only adjusting the Uniform Transmission Rates.

When NPDI prepared its Application, the Board's guidelines for 2011 IRM applications had not been issued. What was available for guidance was the Board's 2010 IRM guidelines. These guidelines stipulated the following:

> "The adjustment to the RTSRs for the 2010 rate year for distributors that file incentive regulation applications will be based only on the specific changes in the connection and

> network rates that were determined in the uniform transmission rates proceeding referred to above." (G-2008-0001, Revision 1.0 July 22, 2009)

Notably, the 2010 IRM guidelines specifically stipulated that adjustments will be based on changes to the UTRs only.

The guidelines pertaining to 2011 IRM state as follows:

> "For 2011, distributors shall adjust their RTSRs based on a comparison of historical transmission costs adjusted for new UTR levels and revenues generated from existing RTSRs. This approach is expected to minimize variances in USoA Accounts 1584 and 1586." (G-2008-0001, Revision 1.0 July 08, 2010, p4).

The 2011 guidelines do indeed allow for adjustments for transmission costs as Board staff notes. However, what Board staff has not noted is that the comparison is to be done with historical costs. Historical costs would not have captured the substantial reductions in transmission costs in the case of NPDI. NPDI submits that the 2011 guidelines would not and will not address the issue that NPDI was and is trying to address. Under either guideline, NPDI's request to adjust its RTS rates beyond adjustments stemming from changes in the wholesale transmission rates would not be considered a standard IRM application and, based on Board practice, such application would entail case-specific notice, interventions and intervenor costs. Processes outside a mechanical approach to an IRM can be costly to a small utility the size of NPDI and should be avoided as much as possible. This effort and cost by all parties are avoidable and it would be in the interest of the ratepayers that they be avoided. NPDI's proposal does that.

Energy Probe and VECC submit that reductions in transmission costs are captured in the variance account and this is not a compelling reason why NPDI cannot stay in IRM for another year.

NPDI acknowledges that the refunding of the RTS reductions will be captured in the variance account. However, NPDI is attempting to stabilize distribution and retail transmission rates. As previously noted, the completion of the Transformer Station has increased NPDI's net fixed assets, and rate base, while decreasing the transformation charges NPDI incurs and passes through to its customers as part of RTSRs. If NPDI were to successfully complete an ICM to include the TS in distribution rates, customers would continue to pay the increased retail transmission rates. If NPDI were to reduce the retail transmission rates, without increasing the distribution rates to account for the transformer station, customers would continue to receive a benefit for which they are not paying. Under an IRM application having an ICM application and a non-standard retail transmission rate application would cause a typically mechanistic IRM application to become overly complicated. NPDI submits for this reason that this cost of service Application is the forum that allows for the appropriate adjustment of both the distribution and retail transmission rates.

NPDI had proposed in its 2010 IRM application (EB-2009-0238) to delay disposition of 75% of the relevant Group 1 account balances until 2011. The Board had approved NPDI's proposal. As discussed under the section 'Prior Board Decision', the rationale behind this request was to avoid rate volatility due to decreased rates in 2010 from a full disposition of Group 1 accounts in that year, followed in 2011 by both the removal of the disposition rate rider, plus increased distribution rates from the planned cost of service application. Rate riders for May 1, 2011 have already been approved to disburse in excess of $1 million, or more than 9% of NDPI's distribution revenue (Decision and Order, EB-2009-0238, Tariff of Rates and Charges). If NPDI's cost of service application does not proceed until 2012, rate volatility will occur at that time, with the removal of the 2011 rate riders and an increase in distribution rates from the cost of service application, thereby nullifying the rationale for the two-year disposition of Group 1 accounts.

Board staff acknowledged that some rate stabilization may occur as a result of the earlier filing of the cost of service application, but noted that this comes at the expense of customers paying the higher rates from such an application one year earlier. NDPI presumes that Board Staff is referring to the "collateral benefits" arising from receiving a higher rate of return earlier than the scheduled cost of service application. NPDI submits that this application has not been driven by any potential increase in return on equity and notes that none of the Intervenors have asserted that this application is an attempt to obtain the higher ROE established through the Board's Cost of Capital Report, as they have asserted in other cases involving the same Preliminary Issue.

Should the collateral benefit be a concern despite the merits of the Application, it is open to the Board to find now or in the hearing of the Application that the existing cost of capital values shall apply for 2011. NPDI notes that considering the issue at the time the Application is dealt with, rather than as a part of its disposition of the preliminary issue, would be consistent with the Board's finding in its Decision on the preliminary issue in Horizon's 2011 cost of service application. In that decision the Board stated:

> "The Board will not impose any restrictions on the outcome of the application at this time. At the completion of the proceeding, the Board will make its decision on all issues, including the effective date for new rates." (December 15, 2010, EB-2010-0131, Decision on the Preliminary Issue, page 8).

Energy Probe and VECC submitted that there is no evidence to suggest that rate volatility in excess of that which may require rate mitigation measures will occur if the cost of service application proceeds for 2012. If there are, this matter will be dealt with at that time on the evidence, not on "conjecture". NPDI submits that the highly negative aspects of rate volatility for NPDI's customers and for the Board should be addressed when they are identified, and these matters should not be left to chance. NPDI respectfully submits that doing nothing now in respect of a problem that was identified a year ago in the hope that things <u>may</u> be sorted out in the future is shortsighted. This matter can be fixed now, and NPDI's cost of service Application does exactly that.

Prior Board Decision

In the 2010 IRM proceeding NPDI advised the Board that it intended to file a cost of service application for 2011 rates and proposed to the Board that paying to customers in 2010 only 25% of the credit owed to customers and 75% be paid in 2011 of the payment to customers of the variance account balances be delayed until 2011 in order to help mitigate the increase from the intended 2011 cost of service application. Specifically, NPDI stated:

> "NPDI notes that the balance requested for disposition is approximately $1.4M or 13% of NPDI's $11.2M revenue requirement. As Board staff indicated, these amounts have accumulated over four years. Repaying this amount over one year will have a significant

> impact on NPDI's cash flow. NPDI wishes to note that as part of its 2008 rate application it requested disposition of these accounts and was denied leaving the length of time holding these funds outside of its control.
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> Also, as Board Staff indicated volatility in electricity bills will result if the disposition is carried out over one year. NPDI recently notified the OEB of its intention to submit a Cost of Service application later this year for rates effective May 2011. It is expected that this application will result in an increase in distribution rates as a result of an expected increase in the proposed 2011 rate base of 15%, compared to the approved 2008 rate base which was based on a cost of service application in that year. Also as part of the application NPDI will be seeking approval to recover a return on its installed smart meters, which exceeds 95% completion at the time of this submission, as well as approval to recover stranded assets of approximately $1.3M. NPDI submits that disposing of the Group 1 accounts over one year in 2010, followed by a rate increase in 2011, which may also include the recovery of stranded assets, will create considerable volatility in customer's rates.
>
> NPDI submits a more practical approach may be to use a two year disposition plan with 25% of the Group 1 accounts being disposed of in 2010 and the remaining 75% being disposed of in 2011 which would be a Cost of Service year for NPDI. This would assist in mitigating the rate increases occurring in that year while returning funds to customers in a shortened time period from that originally applied for." (NPDI Final Submission, EB-2009-0238, February 22, 2010 p6-7).

In its Decision the Board stated:

> "Norfolk requested the disposition of its Group 1 account balance over a four year period. Board staff submitted that a disposition period no longer than one year would be appropriate for all Group 1 account since these balances have been accumulating over the last four year period and to delay any immediate action would not be in the interest of all parties. In its reply submission, Norfolk stated that refunding the Group 1 account balance over one year would have a significant impact on its cash flow. Norfolk also expressed concerns about rate volatility. Norfolk stated that it intends to file a 2011 cost of service application and anticipates upward pressure on rates due to rate base increase and approval to recover stranded meter costs. Norfolk submitted that if the Board were to disapprove a four year disposition period, the Board may wish to consider approving a two year disposition plan where 25% of the Group 1 account balances would be refunded in 2010 and the remaining amount in 2011.
>
> The Board accepts in principle Board staff's rationale for a disposition period of one year and adopts it subject to any compelling evidence that the disposition period should be

> lengthened. The Board finds that Norfolk's rationale for proposing to extend the disposition period is reasonable but is of the view that a four year disposition period is too long. The Board will accept Norfolk's alternative proposal to dispose 25% of the Group 1 account balances in 2010 and the remaining 75% in 2011. The Board will reflect these findings in Norfolk's draft Rate Order." (Decision and Order, April 6 2010, EB-2009-0238 p14).

NPDI believes that this decision to set aside the accepted principle of a one year disposition period, due to rate fluctuations from the early 2011 cost of service application, represents acknowledgement that NPDI would be making the Application. NPDI believes the 2011 rates were specifically set by the Board, as NPDI requested, to help mitigate the fluctuation in rates coming from its intended cost of service application. Moreover given that the Board set aside its accepted principle, and adjusted the rates, based on NPDI's stated intention to file the COS application, NPDI believes it was, and remains, reasonable to expect that NPDI would file the Application in keeping with its stated commitment to do so. Given that the 2011 disposition rate riders are already approved, if NPDI were to wait until 2012 to file a cost of service application, it would again be faced with significant rate volatility from decreased rates in 2011 and increased rates in 2012 and this would be inconsistent with both NPDI's rationale in proposing the two-year disposition and what NPDI believes to have been the Board's rationale in approving NPDI's proposal for disposition over the two-year period.

Parties challenge NPDI's interpretation that acceptance of its proposal for a two year disposition, with knowledge of the early cost of service application, represented an acceptance by the Board that it would be making the cost of service application. They argue that acknowledgement by the Board NPDI's "plan" to file a cost of service application in the 2010 IRM does not constitute acceptance as interpreted by NPDI.

NPDI acknowledges that there can be differences in interpretation of Board decisions. However, in its 2010 IRM rate case, NPDI was clear in its intention to file a 2011 cost of service application; it was clear in its submission that it was proposing a 25%/75% approach in order to address impacts from that 2011 application; and it was clear from its Decision approving that proposed approach that the Board understood that rationale. NPDI has acted on a reasonable reading of the Decision, and by making its 2011 cost of service Application it has acted consistently with its stated intentions, both in its 2010 IRM proceeding; with its February 19, 2010 letter to the Board; and with the Board's Decision in the 2010 IRM proceeding. As discussed in its interrogatory responses, NPDI believed a cost of service application would be accepted by the Board and in fact that NPDI was obligated to file a 2011 cost of service application as a result of its proposal and the acceptance of the proposal by the Board. NPDI submits that its interpretation, at the least, was not unreasonable in the context of the record in the 2010 IRM proceeding.

Rate Application Efficiency

In choosing to opt for and proceed with a 2011 cost of service application, NPDI believed, and still does, that it would be considerably more efficient to proceed with a cost of service application for 2011 rates rather than file an IRM, along with applications for LRAM, Retail Transmission Rates reflecting updated transmission connection costs, Smart Meters and an Incremental Capital Module; all this to be followed with a full cost of service application in 2012.

The IRM application would have been very complex. Each of these matters can and do add complexities on its own. Taken together, the IRM process would clearly not have been, and will not be, the best approach.

One common theme among the parties was that NPDI overstated the complexities of an ICM within the IRM process, noting that the recent ICM applications by Oakville Hydro and Guelph Hydro did not involve an oral hearing.

At the time NPDI was contemplating alternatives, there were only two previous ICM applications - Hydro One (EB-2008-0187) and Oshawa PUC Distribution (EB-2008-0205). Both of these cases went to oral hearings. In both of them intervenors argued for rejection resulting in a complicated proceeding. On the basis of that record, NPDI reasonably that an oral hearing would most likely be required if it filed an ICM application for 2011. In any event, whether an oral hearing or a written hearing, it is still a hearing and it is outside the mechanistic mode of a standard IRM application. Furthermore, there are no assurances and indeed there cannot be assurances that it would not be a complex and costly process. As already noted, each individual application outside the mechanistic process envisioned by IRM itself may not be overly complex, but all of them combined increase the complexity of what is supposed to be a mechanistic IRM application.

Further, as earlier noted under "Rate Stabilization" the intent of this application is to adjust both the distribution rates and the retail transmission rates as a result of completing the transformer station. Completing just the ICM would not have accomplished this and NPDI would have had to file a retail transmission rate application outside of normal parameters, adding further complexity to the application. NPDI believed and still believes that it is more cost effective and efficient to account for all of these applications now within a cost of service application, rather than to address these as part of a 2011 IRM application, or separate applications in addition to the 2011 IRM application, followed by a cost of service application in 2012.

Board Staff suggests that the efficiency rationale would constitute potential justification for the Board to hear the present cost of service application. NPDI submits that the efficiency rationale does provide such justification.

Totality

The Board's off-ramp policy and the Board's April 20th letter do not fetter the Board's statutory jurisdiction to establish just and reasonable rates. The Board made that clear in its Hydro Ottawa decision (page 9). As section 78 of the Ontario Energy Board Act does not specify or restrict the methodology to be applied by the Board in determining just and reasonable rates, NPDI submits that the specific circumstances and the unique aspects of its Application should be paramount and these should not be trumped by notions of technicalities as certain parties' arguments imply.

NPDI believes the Board would agree that there is no clear delineation between those who qualify for early rebasing and those who do not. A policy cannot contemplate and deal with the myriad of possible circumstances and scenarios. Applications of a policy are morphed by application of the policy. The Board's decisions in the cases of Hydro Ottawa and Horizon

Utilities have advanced the understanding of what may be justified and what may not justify early rebasing.

It is clear that there are no similarities between the Hydro Ottawa case and this case. Parties in their arguments have not even attempted to liken NPDI's case with Hydro Ottawa's case. In NPDI's view, this is an important fact that the Board should take particular notice.

On the other hand there are similarities between NPDI's case and the Horizon Utilities case. Horizon Utilities' case was allowed to proceed because the Board concluded that it was reasonable for Horizon Utilities to believe that the Board would accept a cost of service application. Notably, the Board's acceptance of the application was despite the Board's finding that Horizon Utilities did not meet the off-ramp earnings threshold. In its findings the Board stated:

> "The Board has determined that it will hear the application.
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> The Board agrees with the intervenors that Horizon does not meet the off-ramp earnings threshold.
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> However, the Board finds that it was reasonable for Horizon to believe that the Board would accept a cost of service application from Horizon at this time. Therefore the Board finds that the considerations in the April 20th Letter and the Hydro Ottawa decision do not apply to this application." (December 15, 2010, EB-2010-0131, Decision on the Preliminary Issue, page 6).

Based on the record in NPDI's case, NPDI submits that, similar to the Horizon Utilities case, the Board should conclude that it was reasonable for NPDI to believe that the Board would accept a cost of service application. Importantly, the added justification here is that NPDI believed that it had obligated itself to make a cost of service application for 2011 rates, and that NPDI's credibility would have been at risk if it had not filed a cost of service application.

It appears clear from the Hydro Ottawa decision (at page 11) that the Board is prepared to consider forecasts of ROE, and not exclusively historical returns, when considering whether the off-ramp has been met. Even if the Board does not consider NPDI to have met technically or otherwise the 300 basis points threshold, NPDI submits that the dead band simply is not absolute in the way other parties' submissions would suggest. To repeat, as this should be an important consideration for the Board in NPDI's view, the Board allowed the application by Horizon Utilities to proceed even though the Board found that Horizon Utilities did not meet the off-ramp earnings threshold. NPDI would also note that while the resetting of the cost of capital parameters is part of a cost of service application, this is not why NPDI is before the Board with this cost of service application. Notably, no party has asserted that this cost of service application is simply an attempt to obtain the higher ROE established through the Board's Cost of Capital Report, as they asserted in the cases of Hydro Ottawa and Horizon Utilities.

In setting out their arguments under the specific reasons advanced by NPDI for early rebasing, certain parties asserted that these are not reasons that are either compelling or have been accepted by the Board as criteria for early rebasing. In NPDI's submission, the Board should find that this approach is too narrow and in that regard inappropriate. It is clear from the Board's decision in Hydro Ottawa that <u>totality matters</u>. In that decision the Board stated:

> "The Board finds that although these are reasons why a distributor might want to come in early for rebasing, none of these, either singly or taken together, justify why Hydro Ottawa could not stay on the IRM framework in setting rates for another year" (Hydro Ottawa Decision, EB-2010-0133, October 27, 2010, pg. 10)

NPDI respectfully submits that the intervenors' approach is too narrow, it is not consistent with the Board's approach, and therefore it should be rejected.

NPDI submits that from the totality of the record in this case it would be reasonable for the Board to conclude that this cost of service Application for 2011 should proceed, and NPDI submits that the Board should so find. Board staff submitted that the Board could choose the option in hearing the application in this case. If the Application does not proceed, NPDI would need to prepare and file a 2011 IRM application now, including the ICM, Retail Transmission Rate application, LRAM application and a Smart Meter rate rider application, to be followed shortly after with a 2012 cost of service application. Having two complicated and expensive proceedings, back to back, does not make sense for the Board and the intervenors, as well as NPDI. NPDI is a small utility, with a small customer base over which to spread its costs. Additional costs can be avoided. The conclusion can only be that these reasons combined with all the other reasons discussed in this submission, the totality principle espoused by the Board in reviewing requests for early rebasing justify proceeding with the hearing of NPDI's 2011 cost of service application.

As already noted, it is important to NPDI that its cost of service Application proceed for all the reasons and benefits to the ratepayers that NPDI has set out in its Application, its responses to interrogatories and this submission.

NPDI respectfully requests that the Board allow this Application to proceed.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 31ST DAY OF JANUARY, 2011:

Norfolk Power Distribution Inc.

[Original Signed by Jody McEachran]

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Jody McEachran
Chief Financial Officer
Norfolk Power Distribution Inc.