niagara peninsula energy

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Delivered by RESS and Courier

Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto, ON M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

Re: Niagara Peninsula Energy Inc. Application for 2011 Distribution Rates
Board File Number: EB-2010-0138
Response to Interrogatories – SEC

Dear Ms. Walli:

Please find attached Niagara Peninsula Energy Inc.'s responses to interrogatories on its 2011 Electricity Distribution Cost of Service Rate Application. Two hard copies will follow by courier.

If further information is required, please contact Suzanne Wilson, Vice-President Finance at 905-353-6004 or Suzanne.Wilson@npei.ca.

Yours truly,

Brian Wilkie
President & CEO

Cc: Intervenors of Record

1. Please confirm that there are 75 schools in the Applicant's franchise area. Please advise the number of schools, divided between the GS<50 and GS>50 classes, in each of the Peninsula West and Niagara Falls franchise areas.

Response:

According to NPEI's records there are 70 schools in NPEI's area.

	GS<50	GS>50	Total
Niagara Falls area	18	24	42
Peninsula West area	13	15	28
	31	39	70

Please see Appendix A detailing a listing of schools.

2. [Ex. 1, p. 9] Please provide a copy of the merger agreement with all schedules and appendices. Please provide copies of any additional documents relating to the merger dealing in whole or in part with harmonization issues.

Response:

Please see Appendix B which includes the Decision and Order, the MAAD application, merger agreement, shareholder agreement, amalgamation agreement, schedules to the MAAD application, Board Staff Interrogatory response from Niagara Falls Hydro and a copy of the Henley valuation report.

3. [Ex. 1, p 13] Please provide a copy of the Kinetrics asset condition study and Asset Management Plan as soon as they are available. (This IR inserted as a placeholder so that we can track the filing of this additional piece of evidence.)

Response:

Please see Appendix C which was filed with the OEB on February 14, 2011.

4. [Ex. 1, p. 26] Please provide Table 1-3, with columns added for 2006 through 2009 actuals.

Response:

Please see table below.

Niagara Peninsula Energy
Revenue Deficiency Determination

Description	2006	2007	2008	2009
Revenue				
Revenue Deficiency	0	0	0	0
Distribution Revenue	24,283,344	25,802,563	25,731,545	25,714,295
Other Operating Revenue (Net)	2,260,825	2,503,646	1,960,023	2,300,073
Total Revenue	**26,544,169**	**28,306,209**	**27,691,568**	**28,014,368**
Costs and Expenses				
Administrative & General, Billing & Collecting	6,996,933	7,271,213	7,272,731	7,528,149
Operation & Maintenance	5,555,764	5,950,110	5,519,882	5,542,515
Depreciation & Amortization	6,667,024	6,896,734	7,732,755	7,754,076
Property Taxes	194,863	201,207	231,271	215,254
Capital Taxes	219,248	193,300	207,218	250,731
Deemed Interest	3,357,626	3,470,003	3,874,940	4,375,681
Total Costs and Expenses	**22,991,458**	**23,982,567**	**24,838,797**	**25,666,406**
Less OCT Included Above	(219,248)	(193,300)	(207,218)	(250,731)
Total Costs and Expenses Net of OCT	**22,772,210**	**23,789,267**	**24,631,579**	**25,415,675**
Utility Income Before Income Taxes	**3,771,959**	**4,516,942**	**3,059,989**	**2,598,693**
Income Taxes:				
Corporate Income Taxes	1,987,152	1,520,059	918,023	763,489
Total Income Taxes	**1,987,152**	**1,520,059**	**918,023**	**763,489**
Utility Net Income	**1,784,806**	**2,996,883**	**2,141,966**	**1,835,204**
Capital Tax Expense Calculation:				
Total Rate Base	94,183,053	97,335,286	101,964,324	108,236,325
Exemption	10,000,000	12,500,000	15,000,000	15,000,000
Deemed Taxable Capital	**84,183,053**	**84,835,286**	**86,964,324**	**93,236,325**
Ontario Capital Tax	219,248	193,300	207,218	250,731
Income Tax Expense Calculation:				
Accounting Income	3,771,959	4,516,942	3,059,989	2,598,693
Tax Adjustments to Accounting Income	1,870,700	(167,454)	(167,454)	(167,454)
Taxable Income	**5,642,659**	**4,349,488**	**2,892,535**	**2,431,239**
Income Tax Expense	1,987,152	1,520,059	918,023	763,489
Tax Rate Refecting Tax Credits	35.22%	34.95%	31.74%	31.40%
Actual Return on Rate Base:				
Rate Base	94,183,053	97,335,286	101,964,324	108,236,325
Interest Expense	3,357,626	3,470,003	3,874,940	4,375,681
Net Income	1,784,806	2,996,883	2,141,966	1,835,204
Total Actual Return on Rate Base	**5,142,432**	**6,466,886**	**6,016,906**	**6,210,885**
Actual Return on Rate Base	5.46%	6.64%	5.90%	5.74%
Required Return on Rate Base:				
Rate Base	94,183,053	97,335,286	101,964,324	108,236,325
Return Rates:				
Return on Debt (Weighted)	6.64%	6.62%	6.85%	6.09%
Return on Equity	9.00%	9.00%	9.00%	9.00%
Deemed Interest Expense	3,357,626	3,470,003	3,874,940	4,375,681
Return On Equity	4,238,237	4,380,088	4,285,561	4,217,970
Total Return	**7,595,863**	**7,850,091**	**8,160,501**	**8,593,650**
Expected Return on Rate Base	8.07%	8.07%	8.00%	7.94%
Revenue Deficiency After Tax	**2,453,431**	**1,383,205**	**2,143,595**	**2,382,766**
Revenue Deficiency Before Tax	**3,787,129**	**2,126,306**	**3,140,231**	**3,473,586**

5. [Ex. 1, p. 95] Please provide a copy of the accounting order of the Board allowing the Applicant to change its depreciation policy in 2010.

Response:

NPEI is not aware that an accounting order from the Board is required in order to change its depreciation policy. NPEI notes that Chapter 2 of the Filing Requirements for Transmission and Distribution Applications (June 28, 2010) includes the following information in Section 2.5.7 Depreciation/Amortization/Depletion:

"In particular, the Board's general policy for electricity distribution rate setting is that capital additions would normally attract six months (i.e. half-year) of depreciation expense in the year that they enter service. The applicant should identify its historical practice and its proposal for the test year. Variance from this "half-year" rule must be documented with supporting rationale."

Therefore, NPEI submits that adopting the half-year rule in 2010 is in accordance with Board policy.

6. [Ex. 1] With respect to the Pro Forma 2010 Financial Statements:

   a. P. 104 et seq. Please identify all items in the Balance Sheet that are affected by the FMV bump in the merger, show the amount of each item, and show how all such balance sheet items result in a zero net impact on the balance sheet.

   b. P. 111. Please confirm that the actual income taxes payable for 2010 are expected to be $293,733.

Response:

The following Table details the Book Values at December 2007 for the former Peninsula West Utilities, the fair values applied to the balance sheet based on the purchase price of $31.1M which was determined from the valuation that was prepared by Henley International. The Difference column details the FMV applied to the Fixed Assets. Also included are the 2008 balance sheet entries as well as notes related to the entries made in 2009 in order to arrive at balances included on the Pro Forma Balance Sheet for 2010, specifically Future PILS. The FMV bump for all of the fixed assets is included in Account 2065 $45,735,559 which is excluded from Rate Base, the accumulated depreciation related to the FMV bump is included in Account 2160 (25,239,221) and the depreciation for 2008 and 2009 on the FMV bump is included in Account 5715. All other offsetting entries have been recorded through Account 3040 Appropriated Retained Earnings. The $1.4M amount in the difference column relates to the receivable set up for the repayment of the dividend noted in question 7a. The repayment of the dividend offset is included in the Retained Earnings amount of (1,078,433.73) in the Difference column.

Niagara Peninsula Energy Purchase Equation of PenWest Assets **Valuation date January 1, 2008**	Book Values @ December 2007	Fair Values	Difference	Balance Jan 1 2008	2008 Entries Balance Sheet only related to FMV	2008 Entries IS only related to FMV	2008 Pro Forma Balance Sheet Dec 31 2008	Pro Forma Balance	
ASSETS									
Current Assets									
Cash	2,079,330.49	2,079,330.49	-	2,079,330.49	1,400,000.00			Impact in Cashline - Received July 9th 2008	
Accounts Receivable	3,209,591.17	2,993,521.60	(216,069.57)	2,993,521.60					
Unbilled Revenue	4,227,172.34	4,227,172.34	-	4,227,172.34					
Due from PenWest Hydro		1,400,000.00	1,400,000.00	1,400,000.00	(1,400,000.00)		-	Impact in 1200 - AR associated companies	
Inventories	262,254.46	269,938.80	7,684.34	269,938.80		- 7,684.34		Impact in 1330 - Inventory, Offset entry was to Account 5715 - Amortization Other Plant on the IS	
Prepaid Expenses	83,070.45	83,070.45	-	83,070.45					
	9,861,418.91	11,053,033.68	1,191,614.77	11,053,033.68	-	- 7,684.34			
Regulatory Assets									
Retail Cost Variances	20,654.20	20,654.20	-	20,654.20					
Retail Settlement Variances	(4,703,995.51)	(4,703,995.51)	-	- 4,703,995.51					
Smart Meters	42,667.10	42,667.10	-	42,667.10					
Regulatory Asset Recovery	554,712.78	554,712.78	-	554,712.78					
Deferred Charges	0.00	0.00	-	-					
	(4,085,951.43)	(4,085,951.43)	-	- 4,085,951.43					
Future PILs taxes	2,911,000.00	(2,257,552.46)	(5,168,552.46)	(2,257,552.46)	2,955,226.00	618,152.23	1,295,825.77	Impact in 2296 - Future Income Taxes - Current	
								The 2,955,226 was a change in acctg policy to set up former NFI-Hydro future tax asset. The 618,152 was first year of NFEI's change in future tax asset, offset hit the IS	The 2009 entry was for 1,035,543 for an ending Balance in 2009 of 2,331,369

Fixed Assets								
Land	238,719.39	453,195.60	214,476.21	453,195.60				
Land rights	1,591,100.33	1,718,703.75	127,603.42	1,718,703.75				
Buildings	120,252.32	120,252.32	0.00	120,252.32				
Distribution station	873,888.02	3,312,573.91	2,438,685.89	3,312,573.91				
Distribution Lines			0.00					
Overhead	25,911,262.19	49,012,373.19	23,101,111.00	49,012,373.19				
Underground	3,688,846.93	19,805,188.15	16,116,341.22	19,805,188.15				
Distribution Transformers	9,274,769.35	12,583,947.62	3,309,178.27	12,583,947.62				
Distribution Meters	2,187,864.41	3,226,192.55	1,038,328.14	3,226,192.55				
Trucks and Equipment	2,932,314.33	2,322,149.62	(610,164.71)	2,322,149.62				
	46,819,017.27	92,554,576.71	45,735,559.44	92,554,576.71			45,735,559.44	Account 2065 - Other Electric Plant Adjustment
Less: Accumulated Depreciation Land	(519,635.50)	(469,821.33)	49,814.17	(469,821.33)	-	11,998.18		
Less: Accumulated Depreciation Buildings	(120,252.32)	(120,252.32)	0.00	(120,252.32)				
' Less: Accumulated Depreciation	(632,181.12)	(2,538,390.85)	(1,906,209.73)	(2,538,390.85)	-	166,816.89		
' Less: Accumulated Depreciation	(14,907,124.99)	(30,952,770.47)	(16,045,645.48)	(30,952,770.47)	-	366,743.43		
' Less: Accumulated Depreciation	(2,593,025.94)	(7,192,481.60)	(4,599,455.66)	(7,192,481.60)	-	663,351.38		
' Less: Accumulated Depreciation Distribution Transformers	(3,591,450.75)	(4,976,478.26)	(1,385,027.51)	(4,976,478.26)	-	106,824.94		
' Less: Accumulated Depreciation	(870,791.04)	(1,291,337.73)	(420,546.69)	(1,291,337.73)	-	35,988.36		
' Less: Accumulated Depreciation Trucks and Equipment	(2,004,271.22)	(1,780,353.71)	223,917.51	(1,780,353.71)		165,576.49		
Total Accum Depreciation	(25,238,732.88)	(49,321,886.27)	(24,083,153.39)	(49,321,886.27)	0.00	(1,156,067.69)	(25,239,221.08)	The (25,239,221) is in Account 2160 - Accumulated Amortization of Other Utility Plant
Total Fixed Assets	21,580,284.39	43,232,690.44	21,652,406.05	43,232,690.44	0.00	(1,156,067.69)	20,496,338.36	The 1,156,067 offset was to account 5715 - Amortization Other Plant on the IS
Total Assets	30,266,751.87	47,942,220.23	17,675,468.36	47,942,220.23	2,935,226.00	(545,599.80)	21,792,164.13	

LIABILITIES AND SHAREHOLDER'S EQUITY

Current Liabilities							
Accounts payable and accrued liabilities	6,863,134.64	6,863,134.64	0.00	6,863,134.64			
Current portion of customer deposits	30,585.82	30,585.82	0.00	30,585.82			
Current portion of capital lease	21,641.16	21,641.16	0.00	21,641.16			
Current portion of long-term liabilities	9,500,000.00	9,500,000.00	0.00	9,500,000.00			
	16,415,361.62	16,415,361.62	0.00	16,415,361.62			
Long-term liabilities							
Long-term debt			0.00	0.00			
Capital lease	43,887.65	43,887.65	0.00	43,887.65			
Customer deposits	382,970.96	382,970.96	0.00	382,970.96			
	426,858.61	426,858.61	0.00	426,858.61			
Total Liabilities	16,842,220.23	16,842,220.23	0.00	16,842,220.23			
Shareholder's Equity							
Common shares	12,346,097.91	12,346,097.91	0.00	12,346,097.91			
Contributed Surplus		18,753,902.09	18,753,902.09	18,753,902.09			18,753,902.09
Retained Earnings	1,078,433.73		(1,078,433.73)	0.00		- 1,163,752.03	
Retained Earnings (set up NF future tax asset)					2,935,226.00		
NPEI's change in future tax asset 2008						618,152.23	3,038,262.04
Total Shareholder's Equity	13,424,531.64	31,100,000.00	17,675,468.36	31,100,000.00	2,935,226.00	(545,599.80)	21,792,164.13
Total Liabilities and Shareholder's Equity	30,266,751.87	47,942,220.23	17,675,468.36	47,942,220.23	2,935,226.00	(545,599.80)	21,792,164.13
	-	-	-	-	-	-	-

	Balance 2009	2009 Entry	Balance 2010 Pro Forma
Account 2160 change from 2008 to 2009	(25,239,221.08)	- 1,108,989.16	(26,348,210.24)
Account 5715 Amortization in 2009		1,111,638.00	
Account 2105 - Accum Amort Property Plant (correct 2008 entry)		- 2,648.84	

6 b) On Exhibit 1 pg 111 the $293,733 is the Income Tax expense which is calculated using an Accounting Income of $2,954,243 with Tax Adjustments of $93,207 and an entry of $600,000 for future tax asset adjustment. The Accounting Income uses Deemed Interest expense of $4,100,818 on the Revenue Deficiency page. Actual interest expense for 2010 is $2,678,525 which is what the actual income tax provision will be based on. Therefore NPEI cannot confirm that the actual income taxes payable or expense is $293,733. NPEI will have a finalized income tax provision which is prepared by its auditor at the end of March 2011. NPEI can confirm it has paid $2,629,064 in PILS tax installments for the tax year ending 2010.

7. [Ex. 1] With respect to the Financial Statements:

a. P. 160. Please provide details of the dispute with respect to the $1.4 million dividend, including the result of the arbitration and any subsequent legal proceedings, and including the full text of any note disclosure after 2007 relating to that dispute.

b. P. 164, 165. Please reconcile the $25,459,207 contributed surplus in the audited financials with the $18,753,902 contributed surplus on page 117 in the 2011 Pro Forma Financial Statements.

c. P. 172. Please explain the amount of $6,584,368 owing to the affiliate Niagara Falls Hydro Services Inc. Please advise the amount currently owing to this affiliate, and all amounts expected to be owing to this affiliate in the Test Year.

d. P. 175, 178. Please provide a copy of the Applicant's guarantee to TD Bank of the indebtedness of Niagara West Transformation Corporation, plus copies of all documents evidencing the underlying indebtedness by the affiliate to the Bank. Please describe the rationale for the guarantee, the cost or other savings experienced by the affiliate as a result of the guarantee, and the payments (whether fees or otherwise) being made by the affiliate to the Applicant as compensation for providing the guarantee.

e. P. 178. Please provide a full description of the business of Niagara West Transformation Corporation, together with a copy of its most recent financial statements. Please provide copies of all current agreements between the Applicant and this affiliate, and details of how any intercompany pricing was established.

Response:

7 a) NPEI accounted for the repayment of the $1.4M dividend via the purchase equation see the Table presented in question 6a. The $1.4M dividend repayment was received by NPEI on July 9th 2008. The dispute was settled out of court with both parties retaining legal representation.

b) Contributed Surplus per the Financial Statements of $25,459,207 consists of the Paid up Capital from the former Niagara Falls Hydro of $6,705,305 and the Contributed Surplus arising from the purchase of Peninsula West Utilities in the amount of $18,753,902. On the Trial Balance and the Pro Forma Financial Statements NPEI has used Account 3047 (even though the account description doesn't match) to itemized separately the former Niagara Falls Hydro's portion of Contributed Surplus which is shown as Paid up Capital on page 127 of Exhibit 1. Once the rate application process is complete the two numbers will be combined in future Trial Balance reports to the OEB.

c) The amount owing of $6,584,360 to Niagara Falls Hydro Services Inc. at the end of 2009 is made up of the following:

Payable to NFH Services at year end

	2009	2010
Water Deposits held	(353,505)	(386,766)
4th Quarter Water Revenues Billed	(8,528,174)	(9,469,062)
4th Quarter Water Expenses Incurred	192,235	220,424
Water Accounts Receivable	1,913,621	2,352,418
Receivable from NFH Services	191,455	206,055
	(6,584,368)	(7,076,931)

For the 2011 Test Year the total in Account 2240 Payable to Associated Companies is $5,565,520 of which $5,546,000 is estimated to be payable to Niagara Falls Hydro Services Inc. for the 4th quarter water balances owing at the end of 2011.

d) The NPEI guarantee to TD Bank for 50% the indebtedness of Niagara West Transformation Corporation was released on November 15, 2010. Please see Appendix H.

NPEI did not pay any fees in 2008, 2009 or 2010 for being the guarantor. NPEI is not affiliated with the Niagara West Transformation Corporation. NWTC is owned 50% by Peninsula West Power and 50% by Grimsby Power's holding corporation. Prior to the merger Peninsula West Utilities Ltd owned 50% of NWTC however this investment was excluded from the merger and the former PWU's investment was transferred to its parent company Peninsula West Power.

e) NPEI purchases monthly a Transformation Connection fee from NWTC for Peak kW including losses at $1.50 per kW. NPEI is not affiliated with NWTC and therefore there is no affiliate agreement for intercompany pricing because NWTC is not intercompany related to NPEI.

8. [Ex. 2, p. 8] Please provide a copy of the listing of 2011 "recommended projects" referred to, together with the "defined criteria" used for prioritization, and descriptions of the three lowest-priority projects included in the Application and the three highest-priority projects not included in the Application. Please provide an explanation of why the first three are included, and the second three are not.

Response:

The projects considered for 2011 capital expenditure are listed in the following table:

Project #	Project Name	Priority
2011-0004	ROBINSON ST - ALLENDALE TO FALLSVIEW	1
2011-0007	DUNN/DRUMMOND/SYMMES/MAIN	2
2011-0013	STATION ST, SMITHVILLE, CAMPDEN MS REHAB	3
2011-0002	LUNDY'S LANE REBUILD FROM KALAR TO MONTROSE	4
2011-0003	DOUBLE CCT - MONTROSE - MCLEOD TO CANADIANA	5
2011-0001	KER ST - LUNDY'S LANE - U/G REPLACEMENT	6
2011-0005	RIALL ST - DORCHESTER TO ST PAUL O/H EXTN	7
2011-0009	KALAR RD - BEAVERDAMS TO NS&T ROW	8
FUTURE	MCLEOD RD. DBL CCT. EXTENSION OAKWOOD TO DORCHESTER	9
FUTURE	UG CABLE TIE TO NEW POSITIONS IN EXISTING LINEUP AT KALAR TS	10
FUTURE	VOLTAGE CONVERSION SURROUNDING STN. 22	11
FUTURE	STATION 8 MS REHAB	12
FUTURE	CRAWFORD AREA 5KV REBUILD	13
FUTURE	3M51 EXTENSION FROM KER, HIGH ST., AND DORCHESTER RD.	14
FUTURE	STN. 23 VOLTAGE CONVERSION	15
FUTURE	DORCHESTER REBUILD STAMFORD GREEN TO MOUNTAIN RD.	16
FUTURE	GREENLANE / JORDAN MS REHAB	17
FUTURE	MOUNTAIN RD. REBUILD DORCHESTER TO ST. PAUL	18
FUTURE	MOUNTAIN RD. REBUILD DORCHESTER TO KALAR RD.	19
FUTURE	SIDE STREETS BTWN ONTARIO AND RIVER RD. REBUILD	20
FUTURE	MCRAE SIDE STREETS - REBUILD	21
FUTURE	FREDRICA / PROSPECT VOLTAGE CONVERSION	22
FUTURE	12M33 UG CABLE CROSSING REPLACEMENT WITH OH	23
FUTURE	FALLSVIEW FROM FERRY TO SOUTH OF ROBINSON - REBUILD	24

Capital projects that are based on annual programs or that are externally driven are not included in this listing.

NPEI assigns priority to projects considered for capital expenditure in a given year based on public and worker safety considerations, reliability data, asset age and condition, asset utilization, and known future customer connection requirements.

Project 2011-0001 (priority 6) was included to replace critical underground assets that are at end of life.

Project 2011-0005 (priority 7) was included to replace a section of underground main feeder cable. The existing cables are of similar design, installation and vintage to other cables on the distribution system that have incurred repeated failures.

Project 2011-0009 (priority 8) was included to increase reliability by adding transfer capacity between 2 existing transformer stations.

The next highest priority project (priority 9) meets the same criteria as project 2011-0009 but cannot be executed until the completion of project 2011-0003.

The project identified with priority 10 will be implemented to improve reliability upon the completion of project 2011-0005.

The project identified with priority 11 meets similar criteria to that of project 2011-0007 and will replace assets nearing end of life. This project will commence once project 2011-0007 is completed.

9. [Ex. 2, p. 19] Please provide the full capital and operating budget for 2011 presented to the Finance Committee and then to the Board of Directors for approval, together with all presentations and supporting materials.

Response:

Please see Appendix D which details the 2011 capital and operating budgets and the rate application that was presented to both the Finance Committee and the Board of Directors in November 2010.

10. [Ex. 2] Please provide a list of all capital expenditures actually incurred in 2010, plus CWIP at the beginning of the year, CWIP at the end of the year, and amounts closed to rate base during the year, all on a project by project basis.

Response:

The table below details NPEI's actual capital expenditures for 2010, on a project by project basis.

As noted in NPEI's application (Exhibit 2, page 37), NPEI does not use the Construction Work in Progress ("CWIP") account since, with few exceptions, NPEI's capital projects are budgeted for, completed and in-service within the calendar year. For larger projects, the work is normally broken down into different phases, where each phase can be completed and put into service by the end of the year.

2010 Actual Capital Expenditures

Project Number	Project Description	Actual Total Cost	1815 Transformer Station Equipment - Normally Primary	1820 Distribution Station Equipment	1830 Poles, Towers and Fixtures	1835 OH Conductors and Devices	1840 UG Conduit	1845 UG Conductors and Devices	1850 Line Trans-formers	1855 Services	1860 Meters
2010-0026	South Pelham St. Fonthill	806,255			52,230	44,006	342,950	245,924	102,038	18,984	122
2010-1007	Minor Betterments NF area	656,371			77,673	124,623	98,971	158,424	159,152	37,529	
2010-0020	Kiosk Conversions	481,606			3,546	4,978	41,506	308,598	110,718	12,261	
2010-0006	Switchgear replacement	470,650		57,196	26,110	102,612	166,307	114,708	3,717		
2010-1010	Pole Changes NF area	466,081			354,167	73,029	199	436	36,583	1,666	
2010-2007	PW Minor Betterments	350,882			56,263	81,243	44,686	47,563	105,902	15,226	
2010-2010	Pole Replacement PW area	310,440			273,996	20,186			13,512	2,746	
2010-0001	Robinson St-Allendale/Fallsvie	304,689					176,403	128,286			
2010-0023	Durham Voltage Conversion	273,614			106,961	94,515		288	60,705	11,145	
2010-1008	NF Demand Work	269,926			26,608	21,346	2,823	57,238	122,045	39,866	
2010-0002	High Street Area	263,441			98,501	74,908		12,715	34,727	42,589	
2010-0009	Kalar Catalina to Beaverdams	253,934			119,289	65,076	61,945	4,459	3,165		
2010-0007	Murray St Area	208,195			89,896	35,334	20,947	26,612	20,066	15,339	
2010-0008	Oakwood Drive	200,502			59,786	67,198	36,602	35,515	1,402		
2010-0017	Campden DS Feeder Egress/Poles	265,488		265,019	469						
2010-0033	Fernwood Estates Ph II	185,784					5,405	124,296	56,084		
2010-0016	Dorchester NS&T to Morrison	181,985			54,241	68,486	5,723	2,980	36,551	14,005	
2010-0024	Cherry Avenue	181,680			64,773	77,938	8,949	2,402	21,695	5,923	
2010-1009	Subdivision connect (both)	176,985						2,493		174,491	
2010-2008	PW Demand Work	162,579			13,550	14,832		4,212	78,970	51,015	
2010-0053	Oakwood Dr @ Mcleod Relocate	158,191			43,435	56,916	17,340	31,267	9,233		
2010-2009	Underground Servicing PW area	108,383						28		108,355	
	Transfer Smart Meters to Rate Base	4,175,010									4,175,010
	Meters	199,532									199,532
	Contributions and Grants	(1,405,772)									
	Buildings and Fixtures	67,188									
	Office Furniture and Equipment	35,091									
	Computer Hardware	257,960									
	Computer Software	250,022									
	Off-Road Track Vehicle	426,020									
	Other Transportation Equipment	443,017									
	Tools and Equipment	141,720									
	All Projects Under Materiality Threshold	1,809,413	43,487	154,417	439,131	501,745	93,140	635,292	99,051	(156,850)	-
	Total	**13,136,861**	**43,487**	**476,632**	**1,960,627**	**1,528,973**	**1,123,895**	**1,943,735**	**1,075,315**	**394,289**	**4,374,664**

Project Number	Project Description	1905 Land	1908 Buildings and Fixtures	1915 Office Furniture and Equipment	1920 Computer Hardware	1925 Computer Software	1930 Trans-portation Equipment	1935 Stores Equipment	1940 Tools, Shop and Garage Equipment	1945 Measure-ment and Testing Equipment	1955 Comm-unication Equipment	1960 Misc-ellaneous Equipment	1995 Contrib-utions and Grants	Project Total
2010-0026	South Pelham St. Fonthill													806,255
2010-1007	Minor Betterments NF area													656,371
2010-0020	Kiosk Conversions													481,606
2010-0006	Switchgear replacement													470,650
2010-1010	Pole Changes NF area													466,081
2010-2007	PW Minor Betterments													350,882
2010-2010	Pole Replacement PW area													310,440
2010-0001	Robinson St-Allendale/Fallsvie													304,689
2010-0023	Durham Voltage Conversion													273,614
2010-1008	NF Demand Work													269,926
2010-0002	High Street Area													263,441
2010-0009	Kalar Catalina to Beaverdams													253,934
2010-0007	Murray St Area													208,195
2010-0008	Oakwood Drive													200,502
2010-0017	Campden DS Feeder Egress/Poles													265,488
2010-0033	Fernwood Estates Ph II													185,784
2010-0016	Dorchester NS&T to Morrison													181,985
2010-0024	Cherry Avenue													181,680
2010-1009	Subdivision connect (both)													176,985
2010-2008	PW Demand Work													162,579
2010-0053	Oakwood Dr @ Mcleod Relocate													158,191
2010-2009	Underground Servicing PW area													108,383
-	Transfer Smart Meters to Rate Base													4,175,010
-	Meters													199,532
-	Contributions and Grants												(1,405,772)	(1,405,772)
-	Buildings and Fixtures		67,188											67,188
-	Office Furniture and Equipment			35,091										35,091
-	Computer Hardware				257,960									257,960
-	Computer Software					250,022								250,022
-	Off-Road Track Vehicle						426,020							426,020
-	Other Transportation Equipment						443,017							443,017
	Tools and Equipment							26,336	94,973	5,700	9,662	5,049		141,720
	All Projects Under Materiality Threshold		-	-	-	-	-	-	-	-	-	-	-	1,809,413
	Total	**-**	**67,188**	**35,091**	**257,960**	**250,022**	**869,037**	**26,336**	**94,973**	**5,700**	**9,662**	**5,049**	**(1,405,772)**	**13,136,861**

11. [Ex. 3, p. 18] Please explain the drop of two customers in GS>50 kW for each of 2010 and 2011.

Response:

In order to forecast the GS>50 customer counts for 2010 and 2011, NPEI calculated the geometric mean of the historical GS>50 customer growth rate, and applied this value to the actual 2009 customer count. The geometric mean of the GS>50 customer growth rate from 2003 to 2009 is 0.9977. Starting with the 2009 GS>50 count of 852; NPEI computed the forecast 2010 and 2011 counts:

2010 GS>50 customer count = 852 * 0.9977 = 850
2011 GS>50 customer count = 850 * 0.9977 = 848.

The change in the historical GS>50 customer counts over the period from 2003 to 2009 has typically been due to reclassification to or from the GS<50 class, new customers or business closures.

12. [Ex. 4, p. 12] Please provide details of any cost reductions that have arisen or are expected to arise due to the shift to monthly billing, including but not limited to reduced bad debts, lower collection costs, etc. Please provide any internal documents analyzing the costs and benefits of moving to monthly billing in Niagara Falls.

Response:

The former Peninsula West Utilities customers were all billed monthly. NPEI converted the former Niagara Falls Hydro residential and several GS<50 customers to monthly billing on May 15th 2010.

Please see Appendix E which details the costs and savings of converting to monthly billing and Appendix F which is the internal document approved by the Board of Directors in 2010.

13. [Ex. 4, App. 2G] With respect to the Incremental Cost Driver Table:

a. Please disaggregate the seven lines of "net new positions" descriptions to identify the impacts of new positions and retirements for each year. Please provide a numerical breakdown to show why the impacts for a given year are not constant each year.

b. Please provide all reports, presentations, memos or similar documents dealing with the OM&A cost savings arising, or expected to arise, out of the merger.

Response:

a) Please see the Table below itemizing the "net new positions"

NPEI
Breakdown of Net new positions by year

	Includes Benefits
2005	
3 New lineman full year charged to OM&A	97,697
GIS technologist full year	95,140
Junior buyer position not filled full year	(96,000)
EA position filled Oct 2006 10 months vacancy	(70,657)
JR accountant PW full year	42,336
Billing clerk PW full year	42,336
Contract position left full year PW	(32,256)
	78,596

2006	
Director of Engineering PW hired for 11 months	102,667
Executive Assistant NF replace vacancy from 2005 in November	15,467
2 Engineering Techs 1 PW, 1 NF hired one May one April	96,768
2 Contract Lineman PW hired in May	29,676
Controll room operator hired NF in Sept	28,672
1 Contract Admin/CS PW hired in Oct	12,096
1 Contract Accounting PW hired in Sept	8,820
Director of Engineering NF retired in Aug	(47,563)
GM PW deceased in June	(97,875)
Engineering Mgr PW left in August	(58,000)
	90,726

2007 changes from 2006 full year	Includes Benefits
Director of Engineering PW hired	112,000
Executive Assistant NF replace vacancy 2005	92,800
2 Engineering Techs 1 PW, 1 NF hired one May one April	134,400
2 Contract Lineman PW hired in May	44,513
Controll room operator hired NF in Sept	86,016
1 Contract Admin/CS PW hired in Oct	36,288
1 Contract Accounting PW hired in Sept	30,240
Director of Engineering NF retired in Aug	(142,690)
GM PW deceased in June	(195,750)
Engineering Mgr PW left in August	(116,000)
	81,817

New positions partial year 2007	
Engineering Manager NF hired	20,800
IT Manager NF hired	10,400
Systems Analysit NF hired	8,667
Director of Engineering PW left August	(46,667)
Operations Manager PW retired March	(73,500)
Operations Leadhand NF left January 31	(102,657)
Billing Supervisor NF retired Dec 31 2007	-
Billing Clerk NF retired June 2007	(35,616)
2 Apprentices NF hired May	22,364
	(196,219)
2 employee Labour Settlements in 2007 only	83,413
	(112,806)

2008 changes from 2007 full year	Includes Benefits
Engineering Manager NF hired	91,000
IT Manager NF hired	91,000
Systems Analysit NF hired	75,833
Director of Engineering PW left	(112,000)
Operations Manager PW retired	(98,000)
Operations Leadhand NF left	(98,000)
Billing Supervisor NF retired Dec 2007	(91,000)
Billing Clerk NF retired June 2007	(62,328)
2 Apprentices NF hired May	29,353
	(174,142)

New positions partial year 2008	
Customer Service clerk Oct 27 2008	8,063
Controller hired June	56,655
2 Apprentices hired September	12,544
Pay equity adjustment management & executive Jan 1 2008	140,000
	217,262

2009 - 2011 changes from 2008 full year	
Customer Service clerk Oct 27 2008	48,381
Controller hired June	94,424
2 Apprentices hired September	37,632
	180,437

New positions partial year 2009	
Regulatory & Financial Analyst hired	86,333
VP Corporate Service Retired Jan 2009	(141,167)
VP Business Development sick leave August 2009	(46,667)
Lineman retired Jan 2009	(31,476)
3 Apprentices hired	16,848
2 Apprentices hired as lineman full time	21,056
HR clerk hired Jan 19th	49,896
Contracts mat meter position hired June 29	27,216
	(17,960)

2010 - 2011 changes from 2009 full year	
Regulatory & Financial Analyst hired	86,333
VP Corporate Service Retired Jan 2009	(128,333)
VP Business Development sick leave August 2009	(133,333)
EA promoted to Manager CDM	64,167
Assistant EA promoted from customer service	3,000
Customer service vacancy filled in 2010	(3,000)
Lineman retired Jan 2009	(20,439)
3 Apprentices hired	44,928
2 Apprentices hired as lineman full time	35,093
HR clerk hired Jan 19th	45,360
Contracts mat meter position hired June 29	45,360
	39,136

New positions partial year 2010	
2 Customer Services union retired	(72,495)
Contract 2 Business Analysts hired	47,040
Contracts mat meter position hired	23,520
2 Lineman Apprentices hired	19,200
Contract Customer Service/Billing replaced	48,384
Co-op accounting position hired	15,120
	80,769

2011 changes from 2010 full year	
2 Customer Services union retired	(144,991)
Contract 2 Business Analysts hired	112,896
Contracts mat meter position hired	56,448
2 Lineman Apprentices hired	57,600
Contract Customer Service/Billing replaced	72,576
	154,529

New positions partial year 2010	
Engineering supervisor new position	91,000
Co-Op not replaced	(15,120)
	75,880

b) The details of the OM&A estimated cost savings can be found in the Interrogatory response from NFH to the Board staff dated September 24, 2007. This document is included in Appendix B as part of the merger documents being filed. Below is a summary table outlining the expected cost savings.

Costs/(Savings) of the merger

	EXPECTED Section 2.2 Part of the Board Staff Interrogatories from the MAAD application
Wage parity	163,976
Benefit parity	47,566
Pay equity and job evaluation	
Back of House savings	
Computer software,hardware and maintence	
Legal and rate filing, audit fee	
Administration facilities, rent etc	
	(561,900)
Annual savings	(350,358)
Employee other benefits adjustment (Post retirement benefits)	
One time adjustment - non cash	1,140,052

14. [Ex. 4, App. 2I] Please explain why the FTEs are expected to increase by 13.7% from 2006 to 2011 while the number of customers is increasing by 6.3% over the same period. Please include in the explanation the impact of any FTE reductions that arose, or are expected to arise, as a result of the merger.

Response:

Please see Table 4-12, Exhibit 4 page 60 and Table 4-14 Exhibit 4 page 72. The FTE's have increased by 25 since 2005. This is due to the long length of apprenticeship training which ties to future retirements. Within the next 5 years NPEI has 7 senior level staff eligible to retire. The replacements for these positions may come from the unionized environment which in turn leaves gaps to be filled which require lengthy training periods. Also many of the new positions are specialized in the technical fields as NPEI becomes more automated with changing technology, a continuously changing electricity environment and increased regulatory requirements, for example the GIS Technologist, the IT Manager the Systems Analyst, the smart meter coordinators and Business Analysts, Rates Analyst and Controller. Finally there has been a focus to design construct and maintain NPEI's distribution assets internally versus using outsourcing. The change in FTE's does not correlate with the change in customer growth due to the above notations.

To date there have been two retirements at the VP level resulting from the merger. The VP of Corporate Services and the VP of Business Development were replaced with a Manager of CDM and Public Relations. Other duties and responsibilities were delegated to other employees.

15. [Ex. 4, Tables 4-25 and 4-26] Please recalculate the rate base and depreciation for 2011 on the assumption that the half year rule is not applied for 2010 or any prior year, but is applied starting in 2011. Please confirm that if the half year rule is not applied until 2011, the impact on the 2011 deficiency is a reduction of approximately $180,000.

Response:

NPEI has recalculated the 2011 revenue requirement based on applying the half year rule starting in 2011 only. The following table summarizes the changes to various elements of the 2011 revenue requirement under this scenario:

2011 Test Year	Per Application (Half Year Rule applied in 2010)	Per SEC IR 15 (Full Year of Depreciation taken in 2010)	Difference
2010 Depreciation Expense	7,000,940	7,475,696	474,756
2011 Opening Net Book Value	100,989,102	100,514,346	(474,756)
2011 Depreciation Expense	7,143,688	7,143,688	-
2011 Closing Net Book Value	102,948,206	102,473,450	(474,756)
2011 Rate Base	119,144,943	118,670,187	(474,756)
2011 Deemed Interest Expense	4,340,146	4,322,851	(17,294)
2011 Deemed Return on Equity	4,694,311	4,675,605	(18,705)
2011 Revenue Deficiency (before tax)	2,451,313	2,419,960	(31,353)
2011 Revenue Deficiency (grossed up)	3,378,275	3,334,910	(43,364)
2011 Service Revenue Requirement	32,421,330	32,377,965	(43,364)

16. [Ex. 5, p. 3] Please recalculate the weighted average cost of long term debt for the Test Year using the Board's current deemed rate for long term debt as the rate applicable to the City of Niagara Falls and the Niagara Falls Hydro Holding Corporation debts.

Response:

Please see the recalculated Table 5-1 below as requested.

Table 5-1: 2011 IR16 SEC recalculatedWeighted Average Cost of Capital							
Description	Debt Holder	Affiliated with LDC?	Date of Issuance	Principal Balance at December 31, 2011	Term (Years)	Rate%	Interest Cost Per Amortization Schedule
Long term note payable	City of Niagara Falls	Y	April 1, 2000	$22,000,000	20	5.48%	$1,205,600
Long term note payable	Niagara Falls Hydro Holding Corporation	Y	April 1, 2000	$3,605,090	20	5.48%	$197,559
Long term bank loan	Scotiabank	N	June 1, 2004	$3,398,502	10	6.44%	$192,771
Term loan	TD	N	July 19, 2009	$7,965,243	10	4.58%	$348,793
Term loan smart meters	Scotiabank	N	September 30, 2010	$4,143,643	10	4.97%	$215,605
Total				$41,112,478			$2,160,328
Weighted Average Cost of Long Term Debt						5.25%	

Note the current deemed long term debt rate used above is from the Cost of Capital Parameters for the 2011 Cost of Service Applications for Rates effective January 1, 2011. As at the date of preparation of the interrogatories the 2011 deemed long term debt rate for Applications for Rates effective May 1, 2011 had not yet been released by the OEB.

17. [Ex. 5, p. 7] Please provide the calculation of the 5.97% cost rate for long term debt for 2010.

Response:

Per the Revenue Requirement model, tab Debt & Capital Structure

IR 17 Caclulation of 5.97%

Description	Debt Holder	Affliated with LDC?	Date of Issuance	Principal	Term (Years)	Rate%	Year Applied to	Interest Cost
Long term note payable	City of Niagara Falls	Y	April 1, 2000	22,000,000	20	7.25%	2010	1,595,000
Long term note payable	Niagara Falls Hydro Holding Corporation	Y	April 1, 2000	3,605,090	20	7.25%	2010	261,369
Long term bank loan	Scotiabank	N	June 1, 2004	4,237,226	10	6.44%	2010	248,408
Term loan	TD	N	July 19, 2009	8,703,329	10	4.58%	2010	383,217
Term loan smart meters	Scotiabank	N	September 30, 2010	4,500,000	10	4.97%	2010	81,384
								2,569,377
	2010 Total Long Term Debt			43,045,645		**Total Interest Cost for 2010**		2,569,377
			Weighted Debt Cost Rate for 2010					5.97%

The interest cost is the actual interest per the debt amortization schedules. Total actual interest of $2,569,377 divided by the Principal outstanding of $43,045,645 is 5.97%.

18. [Ex. 5, p. 11] Please confirm that the "2009 Actual" figures in Table 5-4 include the FMV bump in the common equity amount and related calculations.

Response:

Yes the $77,638,272 Common Equity in the 2009 Actual column includes the Contributed Surplus of $25,459,207 (see Exhibit 1 page 127) as noted above in question 7a, the $25,459,207 includes the contributed surplus from the purchase of Peninsula West Utilities of $18,753,902 and the offsetting entries from the purchase equation in retained earnings as described above.

19. [Ex. 5, p. 13,14] With respect to the affiliate debt:

a. Please provide details of any discussions between the Applicant and the debt holders or either of them with respect to replacing the debts with third party debt at market rates, or reducing the interest rate on the debts to market rates, or removing the debt holders' options to change the terms, including Maturity Date, at their discretion.

b. Please provide any interest rate quotes or other information in the Applicant's possession that indicates the market rate for long term debt of the Applicant in the Test Year.

Response:

a) There have been no formal discussions between the Applicant and the affiliate debt holders with respect to replacing the debts with third party debt at market rates, or reducing the interest rate on the debts to market rates, or removing the debt holders' options to change the terms, including Maturity Date, at their discretion since both of the promissory notes were fixed rate instruments that have a fixed interest rate that was the Board's deemed long-term debt rate at the time of issuance, and that both of these notes payable were approved by the Board in Niagara Falls Hydro's 2006 EDR application.

b) NPEI does not have in its possession any interest rate quotes or other information that indicates the market rate for long term debt of NPEI in the Test Year.

20. [Ex. 6, p. 7] Please provide the audited financial statements of the Applicant for the year ended December 31, 2010. If they are not yet available, please advise when they are expected to be available. If the expected date is later than March 22nd, the date the 2009 audited statements were available, please explain the reasons for such later date.

Response:

NPEI's 2010 year end audit is scheduled to commence on March 7th. The financial statements are scheduled to be presented to NPEI's Board of Directors on April 12th. As per the new audit standards the audit report date in 2011 will be the date the Board of Directors approves the financial statements. Also, the same resources preparing the year end for 2010 are the same resources preparing for the rate application process.

21. [Ex. 8, p. 9, 12] Please recalculate the GS>50 variable charge per kW on the assumption that the fixed charge is set at $114.35, the Board's ceiling amount.

Response:

Proposed GS<50	Fixed	Variable	Monthly Total Delivery	Monthly Total Bill
At NF 65,000 kWh and 180 kW	222.81	4.0311	948.41	7,445.77
at PW 55,000 kWh and 175 kW	222.81	4.0311	928.25	6,339.71
Using Ceiling Amount				
At NF 65,000 kWh and 180 kW	114.35	4.6424	949.98	7,447.55
at PW 55,000 kWh and 175 kW	114.35	4.6424	926.77	6,338.03

22. Please provide the Applicant's current long term or strategic plan that includes the Test Year.

Response:

Please see Appendix G which is the Strategic Plan prepared in 2008 which was for a period of 3 years. The long term plan for NPEI is currently being updated, and expanded for the next 5 years which will also incorporate the Asset Management plan being prepared by Kinetrics. The updated plan that includes the Test Year is expected to be completed later in 2011.

Appendix A
Listing of Schools

Bill Code	Account No	Street Address	Postal Code	Service Region
GS<50	3224201-0	5082 MAGDALEN ST	L2G3S4	NIAGARA FALLS
GS<50	464404-0	4751 DRUMMOND		NIAGARA FALLS
GS<50	483107-0	6559 CASWELL ST		NIAGARA FALLS
GS<50	4929600-0	5719 MORRISON		NIAGARA FALLS
GS<50	510784-0	6121 VINE ST	L2J1L4	NIAGARA FALLS
GS<50	613745-0	4635 VICTORIA AVE	L2E4B8	NIAGARA FALLS
GS<50	811315-0	5895 NORTH ST	L2G1J7	NIAGARA FALLS
GS<50	900894-0	8450 OLIVER ST	L2G6Z2	NIAGARA FALLS
GS<50	528802-0	3155 SAINT ANDREW AVE	L2J2R7	NIAGARA FALLS
GS<50	2065605-0	5504 MONTROSE RD	L2H1K7	NIAGARA FALLS
GS<50	2065654-0	5504 MONTROSE RD		NIAGARA FALLS
GS<50	2065704-0	5504 MONTROSE RD		NIAGARA FALLS
GS<50	2065753-0	5504 MONTROSE RD		NIAGARA FALLS
GS<50	416214-0	6387 MORRISON ST	L2E7H1	NIAGARA FALLS
GS<50	539353-0	5635 HERITAGE DR	L2J3L6	NIAGARA FALLS
GS<50	5522602-0	5315 VALLEY WAY	L2E1X4	NIAGARA FALLS
GS<50	8401123-0	LUNDY S LANE	L2H1H1	NIAGARA FALLS
GS<50	907808-0	3300 CATTELL DR	L2G6M9	NIAGARA FALLS
GS>50	200931-0	3900 KALAR RD	L2E6S4	NIAGARA FALLS
GS>50	201053-0	3834 WINDERMERE RD	L2J2Y5	NIAGARA FALLS
GS>50	201939-0	8699 MCLEOD RD	L2G3H2	NIAGARA FALLS
GS>50	200691-0	5775 DRUMMOND RD	L2G4L2	NIAGARA FALLS
GS>50	200956-0	6338 O NEIL ST	L2J1M7	NIAGARA FALLS
GS>50	201913-0	6855 KALAR RD	L2H2T3	NIAGARA FALLS
GS>50	202127-0	5960 PITTON RD	L2H1T5	NIAGARA FALLS
GS>50	202325-0	8407 FORESTVIEW BLVD	L2H0B1	NIAGARA FALLS
GS>50	315747-0	5580 CARDINAL NEWMAN	L2H1R4	NIAGARA FALLS
GS>50	331058-0	7374 WILSON CR		NIAGARA FALLS
GS>50	335653-0	6032 CHURCHILL		NIAGARA FALLS
GS>50	364505-0	6642 SCHANLEE ST		NIAGARA FALLS
GS>50	364802-0	6525 CARLTON		NIAGARA FALLS
GS>50	532200-0	2999 DORCHESTER		NIAGARA FALLS
GS>50	312694-0	7112 DORCHESTER RD	L2G5V6	NIAGARA FALLS
GS>50	335604-0	6727 HEXIMER AVE	L2G4T1	NIAGARA FALLS
GS>50	342808-0	6624 CULP ST	L2G2C4	NIAGARA FALLS
GS>50	468801-0	4635 PETTIT AVE	L2E6L4	NIAGARA FALLS
GS>50	483552-0	3910 SAINT JAMES AVE	L2J2R3	NIAGARA FALLS
GS>50	510321-0	3691 DORCHESTER RD	L2J3A6	NIAGARA FALLS
GS>50	532002-0	3112 DORCHESTER RD	L2J2Z7	NIAGARA FALLS
GS>50	613661-0	4700 SIMCOE ST	L2E1V6	NIAGARA FALLS
GS>50	844019-0	6045 BARKER ST	L2G1Y5	NIAGARA FALLS
GS>50	913400-0	8960 WILLOUGHBY DR	L2G6X9	NIAGARA FALLS
GS<50	103553-0	4300 WILLIAM STREET	L0R1B0	PENWEST
GS<50	103763-2	4960 KING ST		PENWEST
GS<50	104203-0	2831 KING STREET	L0R 1S0	PENWEST
GS<50	107549-0	3991 KING STREET	L0R 2C0	PENWEST

Bill Code	Account No	Street Address	Postal Code	Service Region
GS<50	109197-0	4160 FLY ROAD	L0R1G0	PENWEST
GS<50	112346-0	1794 CAISTOR CENTRE R	L0R 1E0	PENWEST
GS<50	115517-0	132 COLLEGE STREET		PENWEST
GS<50	115518-0	1794 CAISTOR CENTRE ROAD		PENWEST
GS<50	103560-0	4875 KING STREET		PENWEST
GS<50	109215-0	5684 KING STREET	L0R 1B0	PENWEST
GS<50	109216-0	5684 KING STREET		PENWEST
GS<50	109646-0	26 REGIONAL ROAD 20 E	L0S1E0	PENWEST
GS<50	109659-0	26 REGIONAL ROAD 20 EAS		PENWEST
GS>50	110902-0	260 CANBOROUGH STRE	L0R 2A0	PENWEST
GS>50	103584-0	4317 CENTRAL AVENUE	L0R1B5	PENWEST
GS>50	103688-0	4944 JOHN STREET	L0R 1B0	PENWEST
GS>50	103717-0	4114 MOUNTAIN STREET	L0R 1B1	PENWEST
GS>50	109255-0	4057 VICTORIA AVENUE	L0R 2E0	PENWEST
GS>50	109658-0	26 REGIONAL ROAD 20 E	L0S 1E0	PENWEST
GS>50	112695-0	5459 REGIONAL ROAD 20	L0R 1Y0	PENWEST
GS>50	112699-0	186 MARGARET STREET	L0R 2A0	PENWEST
GS>50	112701-0	6488 SMITHVILLE ROAD	L0R2A0	PENWEST
GS>50	104113-0	4171 FIFTEENTH STREET	L0R 1S0	PENWEST
GS>50	109541-0	1337 HAIST STREET	L0S 1E0	PENWEST
GS>50	110806-0	132 COLLEGE STREET	L0R2A0	PENWEST
GS>50	103559-0	4875 KING STREET	L0R1B6	PENWEST
GS>50	109272-0	2807 FOURTH AVENUE	L0R 1S0	PENWEST
GS>50	109368-0	2850 FOURTH AVENUE		PENWEST

Appendix B
Merger Documents

NIAGARA FALLS HYDRO

August 31, 2007

Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto, ON M4P 1E4

Attention: Board Secretary

Re: MAADs – Merger, Amalgamation, Acquisition and Divestitures Application
Niagara Falls Hydro Inc., Peninsula West Utilities Limited

Dear Sir or Madam:

At this time, Niagara Falls Hydro Inc and Peninsula West Utilities Limited would like to submit application for the approval of the merger transaction between Niagara Falls Hydro Inc., and Peninsula West Utilities Limited.

At this time, the parties of the transaction, Niagara Falls Hydro Inc. (NFHI) (the Applicant), and Peninsula West Utilities Limited (Pen West) would like to apply:

For leave to amalgamate with any other corporation (s.86(1)(c)). The Applicant note that this includes requests for:

(a) the cancellation of the Electricity Distributor Licences of NFHI (ED-2002-0551) and Pen West (ED-2002-0555) pursuant to subsection 77(5) of the Ontario Energy Board Act, 1998, as amended (the Act); and
(b) the issuance of a new electricity distribution licence to the amalgamated corporation (Niagara Peninsula Energy Inc., (NPEI) which will come into existence on the amalgamation of the Predecessor Corporations, effective on the date of the amalgamation, pursuant to section 60 of the Act.

Please find the enclosed Preliminary Filing Requirements for Applications under Section 86 of the Ontario Energy Board Act, 1998.

7447 Pin Oak Drive, P.O. Box 120, Niagara Falls, Ontario L2E 6S9 Telephone: (905) 356-2681 Fax: (905) 356-0118
E Mail: info@niagarafallshydro.on.ca Web: www.niagarafallshydro.on.ca

NIAGARA FALLS HYDRO

The Applicant understands that the Board may require information that is additional or supplementary to the information filed in this form and that the filing of the form does not preclude the applicant from filing additional or supplementary information. Upon Board request, we will work diligently in providing the necessary information.

If you should have any questions or require additional information, please contact our offices.

Sincerely,

M. Battista

Ms. Margaret Battista
Director of Customer Service and Special Projects (Senior Regulatory Officer)

. cc Brian Wilkie, President, Niagara Falls Hydro Inc.
. cc Brian Walker, President, Peninsula West Utilities Limited
. cc Karen Bubish, Chief Operating Officer, Peninsula West Utilities Limited

MB/mb

7447 Pin Oak Drive, P.O. Box 120, Niagara Falls, Ontario L2E 6S9 Telephone: (905) 356-2681 Fax: (905) 356-0118
E Mail: info@niagarafallshydro.on.ca Web: www.niagarafallshydro.on.ca

Ontario Energy Board

Preliminary Filing Requirements
For Applications under Section 86
Of the *Ontario Energy Board Act, 1998*

INSTRUCTIONS:

All applicants must complete and file the information requested in Part I. If the transaction would result in a change in control of any of the parties to the proposed transaction, the applicant must also complete and file the information requested in Part II.

The Ontario Energy Board (the "Board") has established this form under section 13 of the *Ontario Energy Board Act, 1998* (the "Act") and requires that a proceeding under section 86 of the Act be commenced by filing this form. Please note that the Board may require information that is additional or supplementary to the information filed in this form and that the filing of the form does not preclude the applicant from filing additional or supplementary information.

For applications involving asset sales between licensed distributors or transmitters as made under section 86(1)(b) of the Act, the "Preliminary Filing Requirements for Applications Under Section 86(1)(b) of the *Ontario Energy Board Act, 1998*" form is required. For all other transactions made under section 86(1)(b), including leasing arrangements, this form should be used. If the transaction involves a leasing arrangement, the applicant must also complete and file the information requested in Part III. For transactions involving a non-licensed entity, please contact Market Operations at market.operations@oeb.gov.on.ca for further guidance.

Persons giving a Notice of Proposal under sections 80 or 81 of the Act in addition to filing an application under section 86 of the Act must also complete the "Preliminary Filing Requirements for a Notice of Proposal Under Sections 80 and 81 of the *Ontario Energy Board Act, 1998*" form in addition to this form.

Please be advised that depending on the nature of the proposed transaction, the parties to the proposed transaction may be required to apply for the cancellation of an existing licence, an amendment to an existing licence, the issuance of a new licence or any combination thereof. Such applications are to be made under separate cover as those types of applications are subject to a separate process. Parties may apply for the cancellation of an existing licence, an amendment to an existing licence, the issuance of a new licence or any combination thereof at the same time the parties apply for approval of the proposed transaction.

PART I: GENERAL MINIMUM FILING REQUIREMENTS

All applicants must complete and file the information requested in this Part.

1.1 Nature of the application

1.1.1	Please indicate the nature of the application: Niagara Falls Hydro Inc. ("NFHI") and Peninsula West Utilities Limited ("Pen West") hereby apply to the Ontario Energy Board (the "OEB") for an Order of the OEB:	Check Box	
	For leave for a transmitter or distributor to sell, lease or otherwise dispose of all or substantially all of its transmission or distribution system (s. 86(1)(a)).		
	For leave for a transmitter or distributor to sell, lease or otherwise dispose of that part of its transmission or distribution system that is necessary in serving the public (s.86(1)(b)).		

	For leave to amalgamate with any other corporation (s. 86(1)(c)). The Applicants note that this includes requests for: (a) the cancellation of the Electricity Distributor Licences of NFHI (ED-2002-0551) and Pen West (ED-2002-0555) pursuant to subsection 77(5) of the *Ontario Energy Board Act, 1998*, as amended (the "Act"); and (b) the issuance of a new electricity distribution licence to the amalgamated corporation [Niagara Peninsula Energy Inc., ("NPEI")] which will come into existence on the amalgamation of the Predecessor Corporations, effective on the date of the amalgamation, pursuant to section 60 of the Act.	**X**	
	For leave to acquire voting securities that will exceed 20% of a distributor or transmitter (s. 86(2)(a)).		
	For leave to acquire control of a company that holds more than 20% of the voting securities of a transmitter or distributor (s. 86(2)(b)).		
1.1.2	In conjunction with this application, will a notice of proposal be given to the Board under Section 80 of the Act, concerning the intention of a transmitter or distributor (or its affiliate) to acquire an interest in or construct a generation facility in Ontario or to purchase shares in a generation facility in Ontario? If so, this application must be filed together with a completed "Preliminary Filing Requirements for a Notice of Proposal Under Sections 80 and 81 of the *Ontario Energy Board Act, 1998*".	**NO**	
1.1.3	In conjunction with this application, will a notice of proposal be given to the Board under Section 81 of the Act, concerning the intention of a generator (or its affiliate) to acquire an interest in or construct a transmission or distribution facility in Ontario or to purchase shares in a transmission or distribution facility in Ontario? If so, this application must be filed together with a completed "Preliminary Filing Requirements for a Notice of Proposal Under Sections 80 and 81 of the *Ontario Energy Board Act, 1998*".	**NO**	

1.2 Identification of the Parties

1.2.1 Applicant

Name of Applicant Niagara Falls Hydro Inc. ("NFHI")	File No: (Board Use Only)	
Address of Head Office 7447 Pin Oak Drive P.O. Box 120 Niagara Falls, ON L2E 6S9	Telephone Number (905) 356-2681	
	Facsimile Number (905) 356-0118	
	E-mail Address info@niagarafallshydro.on.ca	
Name of Individual to Contact Brian Wilkie, President	Telephone Number (905) 356-2681, ext 6000	

	Facsimile Number (905) 356-0118	
	E-mail Address brianwilkie@niagarafallshydro.on.ca	

1.2.2 Other Parties to the Transaction

If more than one attach list

Name of Other Party Peninsula West Utilities Limited (“Pen West”)	Board Use Only	
Address of Head Office 4548 Ontario Street, Unit #2 Beamsville, ON L0R 1B5	Telephone Number (905) 563-5550	
	Facsimile Number (905) 563-0838	
	E-mail Address brian@penwest.on.ca	
Name of Individual to Contact W. Brian Walker, President	Telephone Number	
	Facsimile Number	
	E-mail Address	
Name of Other Party Niagara Falls Hydro Holding Corporation (“NFHHC”)	Board Use Only	
Address of Head Office 7447 Pin Oak Drive P.O. Box 120 Niagara Falls, ON L2E 6S9	Telephone Number	
	Facsimile Number	
	E-mail Address	

Name of Individual to Contact **Brian Wilkie, President of Niagara Falls Hydro Inc**	Telephone Number	
	Facsimile Number	
	E-mail Address	
Name of Other Party Peninsula West Power Inc. (“PWPI”)	Board Use Only	
Address of Head Office 4548 Ontario Street, Unit #2 Beamsville, ON L0R 1B5	Telephone Number	
	Facsimile Number	
	E-mail Address	
Name of Individual to Contact **Brian Walker, President of Peninsula West Utilities Limited**	Telephone Number	
	Facsimile Number	
	E-mail Address	

1.2.3	Please attach a list of the officers, directors and shareholders of each of the parties to the proposed transaction.	
	<u>NFHI</u> **Directors** Janie Palmer Carolyn Ioannoni Wayne Campbell Wayne Thomson **Officers** Brian Wilkie Suzanne Wilson **Shareholder** NFHI is a wholly owned subsidiary of NFHCC. The Corporation of the City of Niagara Falls in	

	turn wholly owns NFHCC. **<u>Pen West</u>** **Directors** John Hildebrand Maryanne McDougall Bruce McFarlane Peter Wicks Adrian White Brian Walker **Officers** Karen Bubish **Shareholder** Pen West is a wholly owned subsidiary of PWPI. PWPI is wholly owned by Town of Lincoln (59%), Town of Pelham (17%), and Township of West Lincoln (24%.)	
1.2.4	Please attach a corporate chart describing the relationship between each of the parties to the proposed transaction and each of their respective affiliates.	
	A corporate chart describing the relationship between each of the parties to the proposed transactions and each of their respective affiliates is attached as Attachment 1.2.4.	

1.3 Description of the Businesses of the Each of the Parties

1.3.1	Please attach a description of the business of each of the parties to the proposed transaction, including each of their affiliates engaged in, or providing goods or services to anyone engaged in, the generation, transmission, distribution or retailing of electricity ("Electricity Sector Affiliates").	
	NFHI – NFHI owns, operates, and manages the assets associated with the distribution of electrical power and energy within the geographic territory and municipal boundaries of the City of Niagara Falls as further described in Electricity Distribution Licence ED-2002-0551. **NFHHC** – NFHHC is wholly owned by the City of Niagara Falls and holds all the shares of its subsidiaries: NFHI, and Niagara Falls Hydro Services Inc. ("NFHSI"). **NFHSI** – NFHSI is the competitive affiliate of NFHI. NFHSI is involved in a range of unregulated energy-related businesses including water and sewer billing, meter certification/verification for other utilities. **Pen West Utilities Ltd**– Pen West owns, operates and manages the assets associated with the distribution of electrical power and energy within the geographic territory and municipal boundaries of Town of Lincoln, Town of Pelham, and Township of West Lincoln as further described in Electricity Distribution Licence ED-2002-0555. **PWPI (Peninsula West Power Inc)** – PWPI is wholly owned by the Municipalities of Lincoln, Pelham and West Lincoln, and holds all the shares of Pen West and Peninsula West Services Ltd. ("PWSL")	

	PWSL (Peninsula West Services Ltd) – PWSL is the competitive affiliate of Pen West. PWSL is involved in a range of unregulated energy-related businesses including water heater and sentinel light rentals.	
1.3.2	Please attach a description of the geographic territory served by each of the parties to the proposed transaction, including each of their Electricity Sector Affiliates, if applicable.	
	NFHI – NFHI serves the geographic territory of the City of Niagara Falls pursuant to Electricity Distribution Licence ED-2002-0551. A map showing the service area is provided as Attachment 1.3.2. **Pen West** – Pen West serves the geographic territory of Lincoln, Pelham and West Lincoln pursuant to Electricity Distribution Licence ED-2002-0555. A map showing the service area is provided as Attachment 1.3.2. There are no outstanding service area amendment requests by NFHI or PEN WEST.	
1.3.3	Please attach a description of the customers, including the number of customers in each class, served by each of the parties to the proposed transaction.	
	NFHI — **Number of Customers** Residential — 29, 922 General Service < 50 kW — 2,737 General Service > 50 kW — 595 Large Users — N/A Other — N/A **PEN WEST** Residential — 12,824 General Service < 50 kW — 1,310 General Service > 50 kW — 192 Large Users — N/A Other — N/A	
1.3.4	Please provide a description of the proposed geographic service area of each of the parties after completion of the proposed transaction.	
	The amalgamated utility NPEI will combine the existing service areas of the two Predecessor Corporations.	

1.4 Description of the Proposed Transaction

1.4.1	Please attach a detailed description of the proposed transaction.	
	The parties to the transaction are NFHI, NFHHC, Pen West and PWPI. As the shareholders of NFHI and Pen West, NFHHC and PWPI will cause the two distribution corporations to effect a statutory amalgamation under s.175 of the *Business Corporations Act* (Ontario) ("OBCA") to continue as the amalgamated corporation NPEI, under the laws of Ontario. NPEI will issue shares to NFHHC and PWPI in exchange for all the issued and outstanding shares held by NFHHC in NFHI and held by PWPI in Pen West. The shares shall be distributed in the following ratio: **Party** — **% of NPEI Shares**	

	NFHHC 74.5% PWPI 25.5%	
1.4.2	Please attach the details of the consideration (e.g. cash, assets, shares) to be given and received by each of the parties to the proposed transaction.	
	NFHHC will tender all its shares in NFHI and in return receive **74.5%** of the voting equity shares in NPEI represented by Class A Shares (745 shares.) PWPI will tender all its shares in Pen West and in return receive **25.5%** of the voting equity shares in NPEI represented by Class A Shares (255 shares). NFHHC and PWPI will have equal representation on the Board of Directors of NPEI.	
1.4.3	Please attach the financial statements (including balance sheet, income statement, and sources and uses of funds) of the parties to the proposed transaction for 2 complete years prior to the proposed transaction.	
	The audited financial statements for NFHI and Pen West for the year ended 2005 and 2006 are provided at Attachment 1.4.3.	
1.4.4	Please attach the pro forma financial statements of each of the parties reflecting completion of the proposed transaction for the first full year following the year of the transaction.	
	The pro forma financial statements of NPEI for the period of the first full year following the year of the transaction (2008) assuming the completion of the transaction are provided at Attachment 1.4.4.	

1.5 Other Information

1.5.1	Please provide copies of all annual reports, proxy circulars, prospectuses or other information filed with securities commissions or similar authorities or sent to shareholders for each of the parties to the proposed transaction and their affiliates within the past 2 years.	
	Neither party to the transaction has publicly filed annual reports proxy circulars, prospectuses or other information with securities commissions or similar authorities. Please find a copy of the available Annual Report for Pen West at Attachment 1.5.1. Niagara Falls Hydro has not provided an annual report to its shareholder. Financial statements are provided to its shareholder, the City of Niagara Falls, at its annual meeting.	
1.5.2	Please list all legal documents (including those currently in draft form if not yet executed) to be used to implement the proposed transaction.	
	The following documents will be used to implement the transaction: Merger Agreement Shareholders Agreement Amalgamation Agreement Municipal Cooperation Agreement The Shareholders Agreement and Amalgamation Agreement will be executed at closing. The Amalgamation Agreement will be executed before the filing of articles of amalgamation. The Shareholders Agreement will be executed and will take effect on the formation of NPEI.	
1.5.3	Please list all Board issued licences held by the parties and confirm that the parties will be in compliance with all licence, code and rule requirements both before and after the proposed transaction. If any of the parties will not be in compliance with all applicable licences, codes and rules after completion of the proposed transaction, please explain the reasons for such non-compliance. (Note: any application for an exemption from a provision of a rule or code is subject to a separate application process.)	

	NFHI (ED-2002-0551) and Pen West (ED-2002-0555) hold electricity distribution licences, which are effective until March 31, 2023. Both parties confirm that, to the best of their knowledge, they are in compliance with all licence and code requirements. As part of this application, they are asking to relinquish their current electricity distribution licences and are applying for a new electricity distribution licence for the new amalgamated entity NPEI. NPEI expects to comply with its electricity distribution licence and all code requirements.	
1.5.4	Please explain whether the proposed transaction will cause a change of control, of any of the transmission or distribution system assets, at any time, during or by the end of the transaction. If yes, please complete Part II.	
	At present, the City of Niagara Falls owns 100% of NFHHC, which owns 100% of NFHI. Under the proposed transaction, the City of Niagara Falls would still own 100% of NFHHC (a holding company), which in turn would own 74.5% of NPEI. At present the Municipalities of Lincoln, Pelham and West Lincoln own 100% of PWPI (a holding company), which owns 100% of Pen West. Upon the completion of the proposed transaction, the Municipalities of Lincoln, Pelham and West Lincoln would still own 100% of PWPI, which in turn would own 25.5% of NPEI.	

PART II: ADDITIONAL FILING REQUIREMENTS FOR CHANGE IN CONTROL

If the proposed transaction would result in a change in control of any of the parties to the proposed transaction, this Part must be completed.

2.1 Consumer Protection

2.1.1	Please indicate the impact the proposed transaction will have on consumers with respect to prices and the adequacy, reliability and quality of electricity service.	
	The parties anticipate that the proposed transaction is expected to result in the following benefits for customers and municipal shareholders with respect to prices and the adequacy, reliability and quality of electricity service: • Elimination of duplication (e.g. billing systems) and economies of scale will reduce current operational expenses and assist in avoiding future costs, which will help mitigate future rate increases in local distribution rates. Local distribution rates represent approximately 20 percent of a customer's total electricity bill. • It will improve the utilization of existing resources such as employees, technologies and facilities, and will improve distribution system planning. • By combining resources, employee expertise and best practices, the parties expect that there will be improved reliability of the local electricity distribution system for both urban and rural customers, enhanced customer service, and a greater emergency response capability. • The larger customer base combined with reduced operational costs through economies of scale results in a greater financial ability to invest in the maintenance and upgrading of the local electricity distribution infrastructure (i.e. poles, wires, transformers). • An initial study of a harmonization of the current local distribution rates in the two service areas shows there would be minimal impact on customer rates and would result in a consistent, fair and competitive rate structure for all customers, along with improved services. • The proposed transaction will maintain local presence and control over the management of electricity services and distribution rates increasing the consumer confidence in the	

	delivery of reliable quality electricity service. • Customers of Peninsula West will benefit from a larger, centrally located service centre in West Lincoln. This will provide for improved customer service and response times during emergencies.	
2.1.2	Please describe the steps, including details of any capital expenditure plans that will be taken to ensure that operational safety and system integrity are maintained after completion of the proposed transaction.	
	The two parties are committed to not only ensure that operational safety and system integrity are maintained after completion of the proposed amalgamation, but also to work toward improvements in this area. The parties believe that the economies of scale and synergies created by the amalgamation will permit more funds to be available for operational safety and system integrity-related expenditures.	
2.1.3	Please provide details, including any capital expenditure plans, of how quality and reliability of service will be maintained after completion of the proposed transaction. Indicate where service centres will be located and expected response times.	
	The parties anticipate that by combining resources, employee expertise and best practices the parties will expect that there will be improved reliability of the local distribution system for both urban and rural customers, enhanced customer service, and a greater emergency response capability. The utilization of existing resources such as employees, technologies, and facilities will improve distribution system planning. The construction of a new service centre in West Lincoln will provide for improved response times for the current Pen West customers. The larger existing Niagara Falls Hydro service centre will provide for improved customer service. With the availability of a larger fleet, there will be reduced operational costs providing for further financial ability to invest in the infrastructure of the system improving both the quality and reliability of the service provided to both Niagara Falls and Peninsula West customers. It is the intention of all parties to the proposed transaction that service quality indices remain within the current accepted quality levels as defined in the OEB's 2000 Electricity Distribution Rate Handbook. The current Peninsula West service centre will be inadequate to the anticipated growth needs of the service territory. A new modern centralized service centre will maintain the accepted quality levels with operational efficiencies that may improve response times. The anticipated response times are not known at this time.	
2.1.4	Please indicate whether the parties to the proposed transaction intend to undertake a rate harmonization process after the proposed transaction is completed. If yes, please provide a description of the plan.	
	Should rate harmonization be pursued, the parties intend to conform to the rate harmonization process as contained in the Distribution Rate Handbook and any other Board direction that may be applicable at the time they undertake rate harmonization. The parties intend to rate harmonize within the 5-year limit set out in the Board's July 23, 2007 report on ratemaking associated with distributor consolidation. Rate harmonization will be examined at the time of rebasing in 2010.	
2.1.5	Please identify all incremental costs that the parties to the proposed transaction expect to incur. These may include incremental transaction costs, (i.e., legal), incremental merged costs (i.e., employee severances) and incremental ongoing costs (i.e., purchase and maintenance of new IT systems). Please explain how the new utility plans to finance these costs.	
	Incremental transaction costs include legal fees; there have been no identified incremental merged costs as there is no intention of any employee layoffs or severances. Incremental ongoing costs such as costs associated with the construction of the new service center in West Lincoln have been identified as a distribution expense to be financed through current rates and potentially further recovered at time of rebase application.	

2.1.6	Please describe the changes, if any, in distribution or transmission rate levels (as applicable) and the impact on the total bill that may result from the proposed transaction.	
	An initial harmonization review based on EDR 2006 rates resulted in minimal rate impact to the average customer base. Due to changing rate methodology resulting from the rebasing initiative, the impact on the total bill that may result from the proposed transaction is not known. It is the intention of the parties to the proposed transaction to rebase as a single entity.	
2.1.7	Please provide details of the costs and benefits of the proposed transaction to the customers of the parties to the proposed transaction.	
	Through this transaction, the parties believe that consumers' interests are served. The parties will be able to capitalize on economies of scale, achieve greater efficiencies and create new business opportunities by becoming a larger entity. To that end, the parties have agreed to certain objectives and business principles for NPEI that support and enhance customer service and shareholder value. Some of these objectives are as follows: • Maintain local presence and control over the management of electricity services and rates. • Improve electricity distribution services to local customers. In this regard, the parties believe that they will be able to provide better customer service and competitive distribution rates for NPEI, customers by adopting the best practices of both NFHI and Pen West and the industry generally. NPEI is committed to taking advantage of proven best practices in order to maximize cost savings and improve services to customers. Cost savings may in turn contribute to the mitigation of rate increases to NPEI customers. • Improve the utilization of existing resources. • Explore business options that achieve new economies of scale and avoid duplication of services and costs to the customer. • Pursue strategic partnerships that contribute to a strengthened corporate presence and voice – locally and provincially. • Improve corporate flexibility to better respond to emerging business opportunities and complexities in the electricity market. The parties also intend to maintain service reliability at least at current levels based on standard industry measurements. It is expected that NPEI will be able to both maintain and improve service reliability for customers. The ability to sustain adequate investment levels, maintain, and replace aging infrastructure will be a fundamental benefit of a financially stronger NPEI. An initial rate harmonization study based on the 2006 EDR methodology resulted in minimal total bill impact to consumers.	

2.2 Economic Efficiency

2.2.1	Please indicate the impact the proposed transaction will have on economic efficiency and cost effectiveness (in the distribution or transmission of electricity). Details on the impacts of the proposed transaction on economic efficiency and cost effectiveness should include, but are not limited to, impacts on administration support functions such as IT, accounting, and customer service.	
	One of the main reasons why the shareholders have agreed to amalgamate their distribution utilities is in order to capitalize on economies of scale. It is expected that this will assist in mitigating what could be higher distribution rates. In considering the merger, the parties considered that the following are	

	economies of scale which could be realized: • integration of management billing and record systems; • lower financial costs and improved access to capital for investment in the distribution system in both areas; • the enhancement of customer service at competitive rates making the communities attractive to investors; and • Because of the merger, NPEI will be able to pursue productivity improvement strategies in the best interests of its customers. Please refer to Section 2.1.1 for further highlights of increased efficiency in the provision of distribution services.	

2.3 Financial Viability

2.3.1	Please provide a valuation of any assets or shares that will be transferred in the proposed transaction. Provide details on how this value was determined, including any assumptions made about future rate levels.	
	The applicants engaged an independent third party financial advisor, Henley International Inc., to provide them with a valuation of both distribution companies. Using this valuation as a basis, the parties then proceeded to negotiate the share allocation of NPEI. A copy of the valuation report has been included as Attachment 2.3.1.	
2.3.2	If the price paid as part of the proposed transaction is significantly more than the book value of the assets of the selling utility, please provide details as to why this price will not have an adverse affect on the economic viability of the acquiring utility.	
	Not applicable	
2.3.3	Please provide details of the financing of the proposed transaction.	
	As the proposed transaction is an amalgamation, there are no financing requirements. Each shareholder will receive shares in NPEI as was outlined in the section 1.4.2 of this application.	
2.3.4	Please outline the capital (debt /equity) structure, on an actual basis, of the parties to the proposed transaction before the transaction and on a pro forma basis after completion of the proposed transaction. In order to allow the Board to assess any potential impacts on the utility's financial viability, please include the terms associated with the debt structure of the utility as well as the utility's dividend policy after the completion of the proposed transaction. Please ensure that any debt covenants associated with the debt issue are also disclosed.	
	Both NFH and PWU are currently at a deemed capital structure of 50/50. Beginning in 2008 this capital structure will begin the transition to the 60/40 (debt/equity) structures that will apply to all utilities. This transition will take three years with the following adjustment to the share of equity: 2007 2008 2009 2010 Equity share % 50.0 46.7 43.3 40.0 Returns on capital will remain at current levels until rebasing in 2010. Investment is partially financed by debt. The amount of borrowing is set at a level that will meet the deemed 60/40 capital structures. The remaining funds are provided by internally generated funds. Cash flow not needed for planned investment or to meet OEB deemed working capital requirements will be applied to re-investment in plant infrastructure rather than dividend payout.	
2.3.5	Please provide details of any potential liabilities associated with the proposed transaction in relation	

	to public health and safety matters or environmental matters. These may be matters that have been identified in the audited financial statements or they may be matters that the parties have become aware of since the release of the most recently audited financial statements. If there are any pre-existing potential liabilities regarding public health and safety matters or environmental matters for any party to the proposed transaction, provide details on how the parties propose to deal with those potential liabilities after the transaction is completed. Specify who will have on-going liability for the pre-existing potential liabilities.	
	There are no potential liabilities associated with the proposed transaction in relation to public health and safety matters or environmental matters.	

2.4 Other

2.4.1	If the proposed transaction requires the approval of a parent company, municipal council or any other entity please provide a copy of appropriate resolutions indicating that all such parties have approved the proposed transaction.	
	Please see Attachment 2.4.1.	
2.4.2	Please list all suits, actions, investigations, inquiries or proceedings by any government body, or other legal or administrative proceeding, except proceedings before the Board, that have been instituted or threatened against each of the parties to the proposed transaction or any of their respective affiliates.	
	As determined in due diligence, there are no material suits, actions, investigations, inquiries or proceedings by any government body or other legal or administrative proceeding, that have been instituted or threatened against each of the parties to the proposed transaction or any of their respective affiliates.	
2.4.3	Regarding net metering thresholds, the Board will, absent exceptional circumstances, add together the kW threshold amounts allocated to the individual utilities and assign the sum to the new or remaining utility. Please indicate the current net metering thresholds of the utilities involved in the proposed transaction. Please also indicate if there are any special circumstances that may warrant the Board using a different methodology to determine the net metering threshold for the new or remaining utility.	
	The OEB's proposed methodology is acceptable to NFHI and Pen West.	
2.4.4	Please provide the Board with any other information that is relevant to the application. When providing this additional information, please have due regard to the Board's objectives in relation to electricity.	
	The OEB has clearly suggested that the consolidation of utilities will provide benefits to the industry. Upon completion of the amalgamation, NPEI will service approximately 47,580 customers in the Niagara Peninsula. NPEI will carry out its corporate vision by focussing on the following operating strategies; • Improving service delivery to customers; • Improving internal operational cost efficiencies and asset utilization; and • Attracting, developing and retaining a highly skilled and motivated workforce. The parties believe that by following these operating strategies, and amalgamating complementary utilities that share the same goals and visions, NPEI will be able to capitalize on economies of scale, and provide improved service quality.	

PART III: ADDITIONAL FILING REQUIREMENTS REGARDING LEASE TRANSACTIONS

If the proposed transaction involves a leasing arrangement, this Part must be completed.

3.1.1	In addition to the information provided in section 1.3.4, please identify separately any assets in the service area that are owned, from those assets that are encumbered by any means, e.g., subject to a lease or debt covenant.	
	Not applicable.	

How to Contact the Ontario Energy Board

The Ontario Energy Board is located at:

P.O. Box 2319
2300 Yonge Street, Suite 2701
Toronto, Ontario
M4P 1E4

Telephone:	416-481-1967
Toll Free Number:	1-888-632-6273
Fax:	416-440-7656
Website:	http://www.oeb.gov.on.ca
Board Secretary's e-mail address:	boardsec@oeb.gov.on.ca

::ODMA\PCDOCS\TOR01\3610137\2

Attachment 1.2.4

Merger of Niagara Falls Hydro Inc.
and
Peninsula West Utilities Limited

Corporate Chart

outlining the relationship of parties
to the transaction and their affiliates

Transaction Structure

- Merger of:

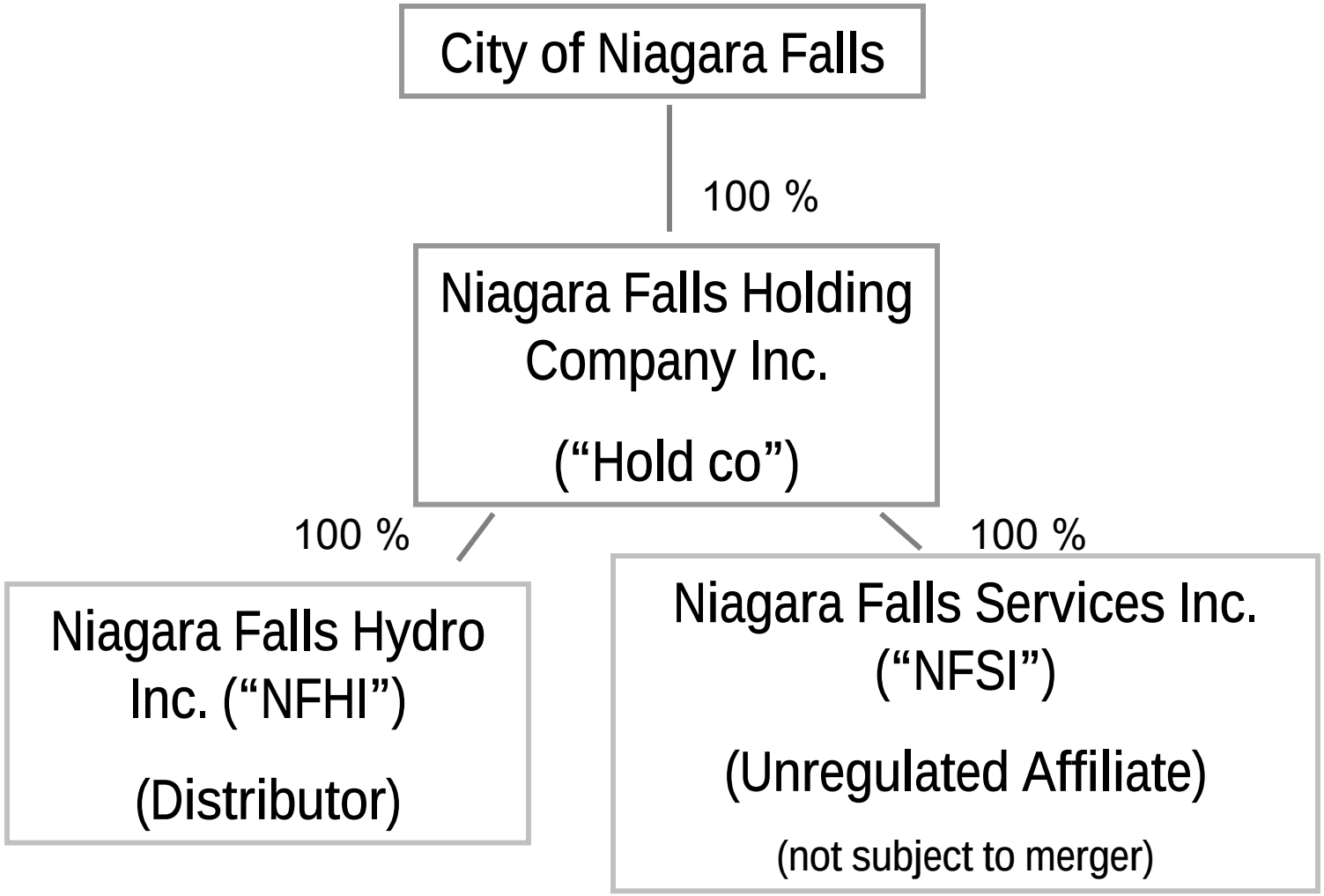
  (i) Niagara Falls Hydro Inc. ("NFHI")
  - electricity distribution company serving residents of Niagara Falls

  (ii) Peninsula West Utilities Limited ("PWU")
  - electricity distribution company serving residents of the Town of Lincoln, the Town of Pelham, and the Township of West Lincoln

- Result is a <u>new</u> OBCA distribution corporation ("NPEI")
- Niagara West Transformation Corporation is excluded from the merger.

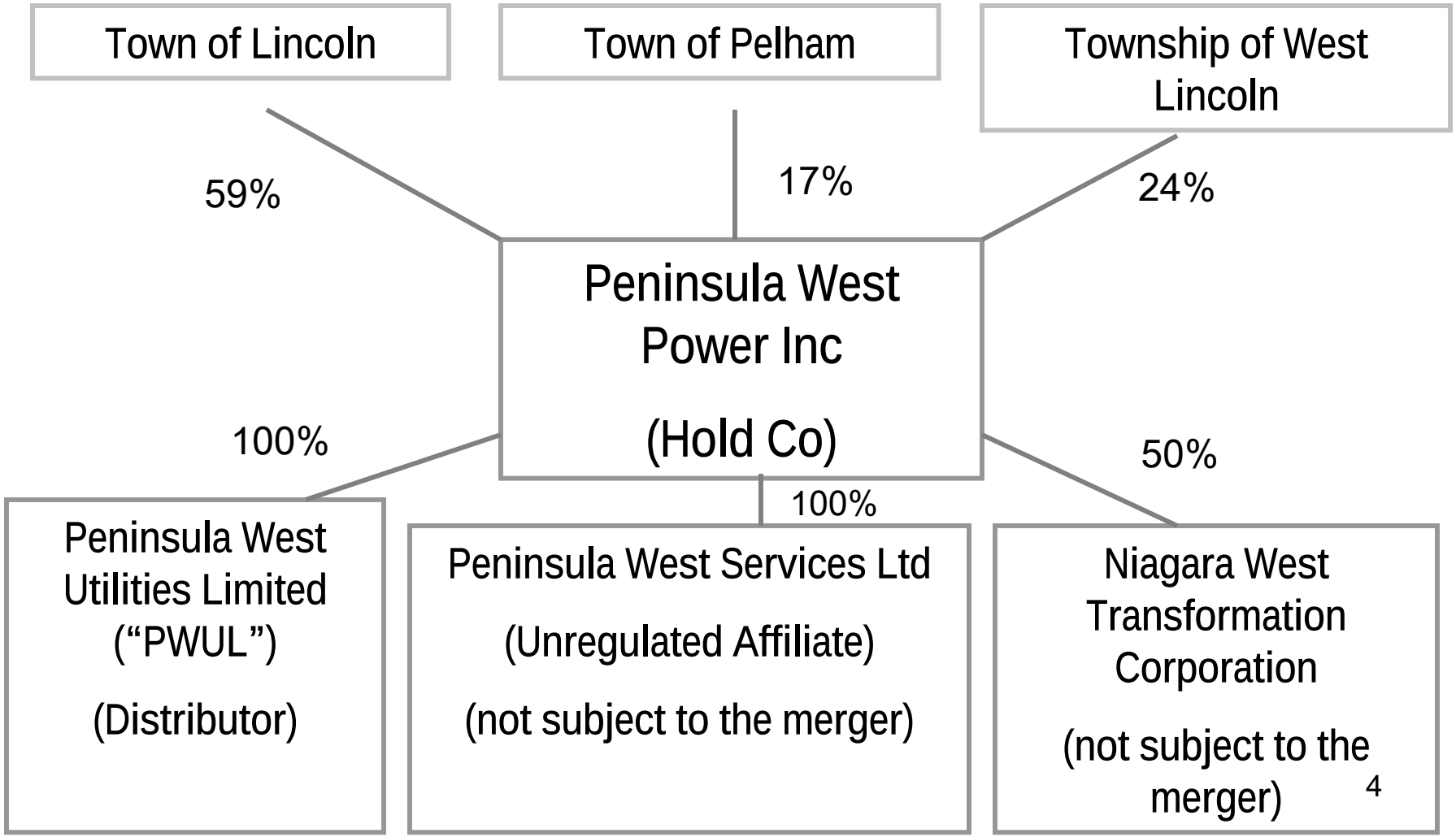
Transaction Structure

Current Corporate Structure of Niagara Falls Hydro



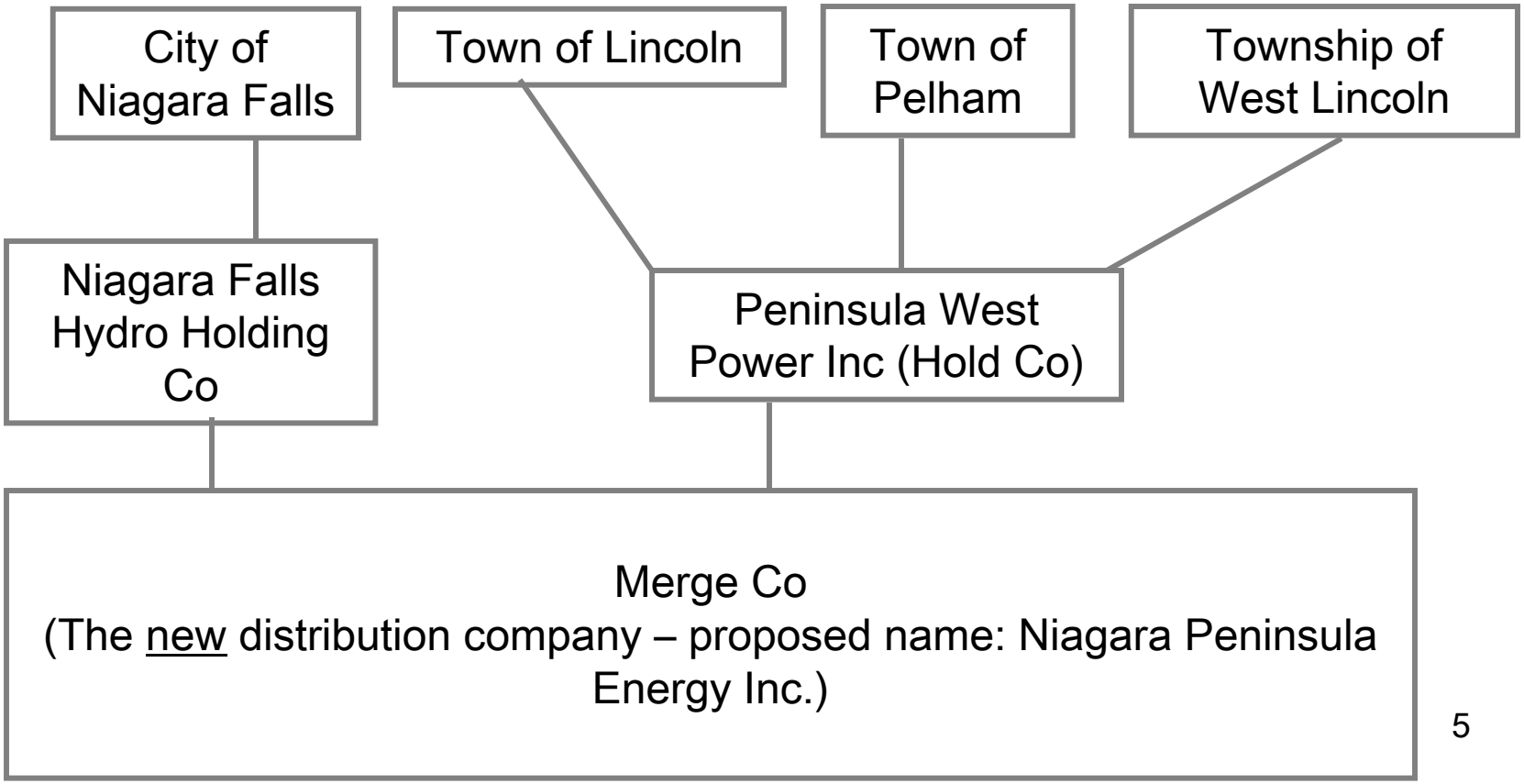
Transaction Structure

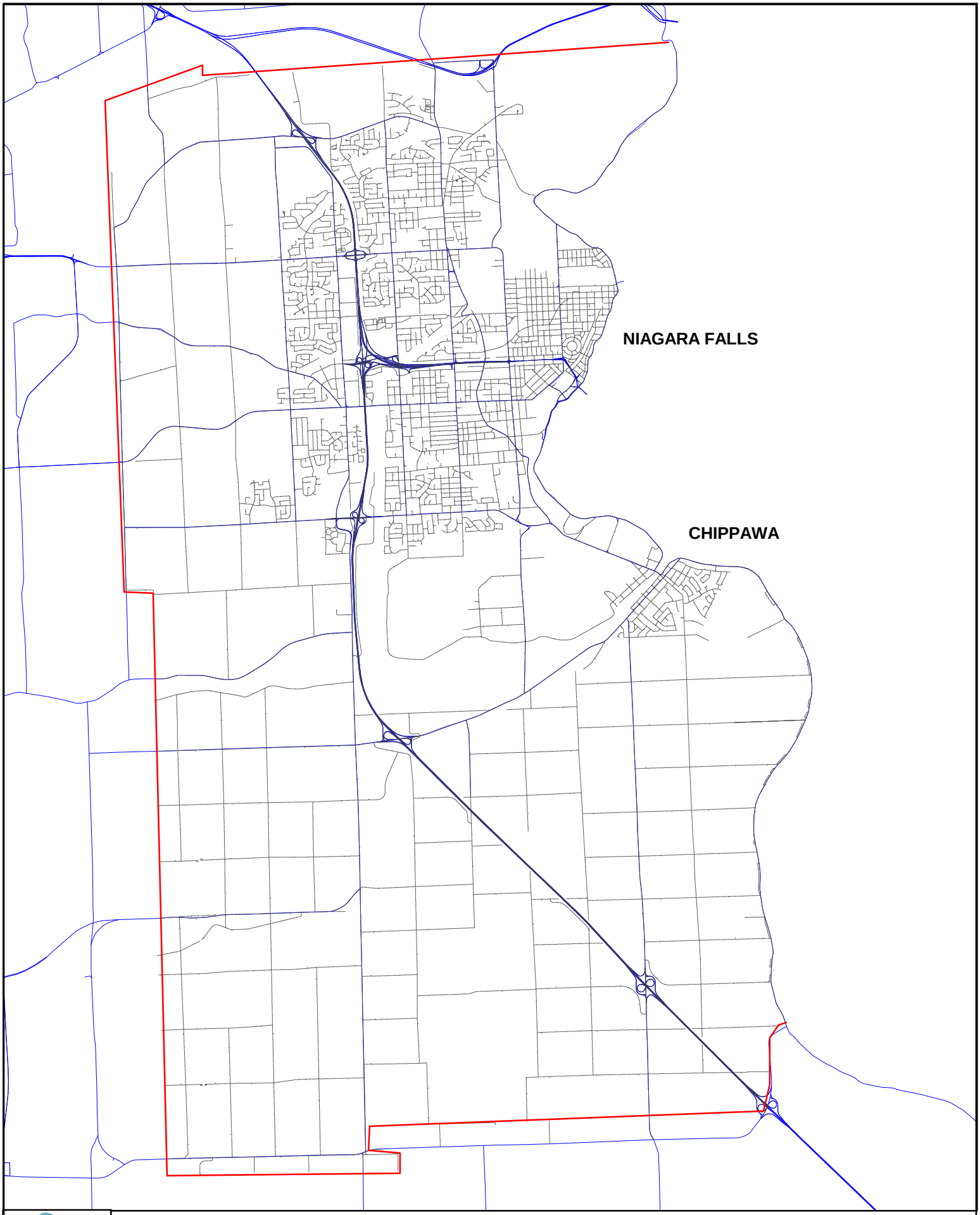
Current Corporate Structure of Peninsula West Utilities Limited



Transaction Structure

Post-Merger Structure





NIAGARA FALLS HYDRO

TITLE:

Niagara Falls Hydro Service Area



PEN WEST Utilities
"Providing power for the future"

PENWEST SERVICE TERRITORY

DRAWN BY: Z.L.	SIZE E	FSCM NO.	DWG NO.	REV 1
CHECKED BY:	SCALE N.T.S.	DATE: AUG 29/05	SHEET 1 OF 1	

crawford smith & swallow

NIAGARA FALLS HYDRO INC.

Financial Statements

December 31, 2005

Crawford, Smith and Swallow
Chartered Accountants LLP

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Niagara Falls, Ontario
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crawford smith & swallow

AUDITORS' REPORT

To the Board Members and Shareholder of Niagara Falls Hydro Inc.

We have audited the balance sheet of Niagara Falls Hydro Inc. as at December 31, 2005 and the statements of operations, retained earnings and cash flows for the year then ended. These financial statements are the responsibility of the company's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In our opinion, these financial statements present fairly, in all material respects, the financial position of the company as at December 31, 2005 and the results of its operations and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

Niagara Falls, Ontario
April 18, 2006

CRAWFORD, SMITH AND SWALLOW
CHARTERED ACCOUNTANTS LLP

NIAGARA FALLS HYDRO INC.

BALANCE SHEET
December 31, 2005

	note 19	
Assets - note 5	2005 $	2004 $
Fixed Assets - note 3	60,302,431	60,145,961
Current Assets - note 4	26,419,713	20,157,761
Regulatory Assets - note 13	3,640,154	3,194,999
	90,362,298	**83,498,721**

Liabilities and Shareholder's Equity

Long-Term Debt - note 5	32,058,214	32,706,915
Current Liabilities - note 6	18,255,184	12,093,946
Other Liabilities - notes 7 and 14	4,414,604	4,202,183
Shareholder's Equity		
Share capital - note 8	18,899,784	18,899,784
Paid-up capital	6,705,305	6,705,305
Retained Earnings	10,029,207	8,890,588
	35,634,296	34,495,677
	90,362,298	**83,498,721**

Signed on behalf of the Board:

Director

Director

See accompanying notes

NIAGARA FALLS HYDRO INC.

STATEMENT OF RETAINED EARNINGS

for the year ended December 31, 2005

	note 19	
	2005 $	2004 $
Retained Earnings, Beginning of Year	8,890,588	7,757,374
Net Income for the Year	1,138,619	1,133,214
Retained Earnings, End of Year	10,029,207	8,890,588

See accompanying notes

NIAGARA FALLS HYDRO INC.

STATEMENT OF OPERATIONS

for the year ended December 31, 2005

	note 19	
	2005 $	2004 $
Service Revenue		
Standard supply charge	56,324,377	43,105,083
Wholesale, network and connection charges	14,105,573	13,280,118
Service charge	7,488,547	8,554,096
Distribution volumetric charge	6,251,593	5,113,954
Standard supply service administration charge	88,481	86,629
Retailer revenue	43,001	45,239
Other income	(29,224)	43,448
	84,272,348	70,228,567
Cost of Power		
Power Purchased	70,429,950	56,423,047
Gross Profit	13,842,398	13,805,520
Other Revenue	1,733,903	2,045,459
	15,576,301	15,850,979
Expenses		
Operation and maintenance		
Distribution	3,493,734	3,338,345
Utilization	248,701	150,412
Administration and general	4,714,344	4,234,985
Billing and collecting	2,240,667	2,058,591
Depreciation	4,057,011	3,814,958
Extraordinary deductions	37,014	51,576
	14,791,471	13,648,867
Net Income before Payments in Lieu of Income Taxes	784,830	2,202,112
Payments in Lieu of Income Taxes	(353,789)	1,068,898
Net Income for the Year	1,138,619	1,133,214

See accompanying notes

NIAGARA FALLS HYDRO INC.

STATEMENT OF CASH FLOWS

for the year ended December 31, 2005

	note 19	
	2005	2004
	$	$
Cash Provided By:		
Operations		
Net Income for the year	1,138,619	1,133,214
Gain on sale of fixed assets	0	(44,147)
Items not involving cash		
Depreciation	4,057,011	3,814,958
Employee future benefits	82,082	74,300
	5,277,712	4,978,325
Changes in non-cash working capital components - note 9(a)	5,179,497	(713,683)
	10,457,209	4,264,642
Investments		
Additions to property and equipment - net	(4,213,481)	(10,132,494)
Proceeds on sale of fixed assets	0	(55,000)
Regulatory costs - note 13	(445,155)	397,616
	(4,658,636)	(9,789,878)
Financing		
Long-term deposits	99,784	(1,287)
Long-term bank loan	(608,346)	6,210,170
Employees' accumulated vested sick leave	2,892	(10,852)
	(505,670)	6,198,031
Increase in Cash Position	5,292,903	672,795
Cash Position, Beginning of Year	4,633,005	3,960,210
Cash Position, End of Year	9,925,908	4,633,005
Cash Position		
Cash	9,751,105	4,457,432
Restricted cash	174,803	175,573
	9,925,908	4,633,005

See accompanying notes

NIAGARA FALLS HYDRO INC.

NOTES TO FINANCIAL STATEMENTS
for the year ended December 31, 2005

Incorporation

On April 1, 2000, Niagara Falls Hydro Inc. was incorporated under the Business Corporations Act (Ontario) along with its affiliate companies, Niagara Falls Hydro Holding Corporation and Niagara Falls Hydro Services Inc. The incorporation was pursuant to the provisions of the Energy Competition Act, 1998.

1. Significant accounting policies

These financial statements of Niagara Falls Hydro Inc. have been prepared in accordance with Canadian generally accepted accounting principles, including accounting principles prescribed in the accounting procedures handbook for electric distribution utilities by the Ontario Energy Board. The company is a wholly-owned subsidiary of Niagara Falls Hydro Holding Corporation.

Revenue recognition

Service revenue from the sale of electrical energy includes an accrual for power supplied but not billed to customers from the date the meters were last read to the year end.

Fixed assets and depreciation

Fixed assets are stated at acquisition cost. Much of the distribution system is constructed by the company and is capitalized based on actual costs. Depreciation is determined on a straight-line basis with reference to estimated useful lives of the assets in accordance with the Ontario Energy Board policy. Depreciation periods for the fixed assets range from 4 years to 60 years.

Inventory

Inventory is valued at the lower of moving average cost and replacement cost. Inventory is comprised of material and supplies used to maintain and upgrade the electrical distribution system.

Ontario Municipal Employees Retirement System

The company makes contributions to the Ontario Municipal Employees Retirement System (OMERS), which is a multi-employer plan, on behalf of 78 members of its staff. The plan is a defined benefit plan which specifies the amount for the retirement benefit to be received by the employees based on the length of service and rates of pay.

The amount contributed to OMERS for the year ending December 31, 2005 was $298,191 (2004 - $280,667) for current service.

Long-term deposits

Deposits are considered long-term liabilities. Any deposits expected to be refunded in the next year in excess of deposits expected to be received have been shown as current liabilities.

Employee's accumulated vested sick benefits

Under the sick leave plan unused vested sick leave can accumulate and employees of the company as at April 1, 1987 can request at any time and will receive payment if funds are available as determined by the company. Full provisions for the liability, to the

1. Significant Accounting Policies - continued

Employee's accumulated vested sick benefits - continued
extent that cash payments to employees might be required, have been made in these financial statements.
Employees of the Corporation and company hired after March 31, 1987 can accumulate unused sick leave but it does not become vested at any time.

Paid-up capital
Paid-up capital reflects the balance of capital contributions received by the former Niagara Falls Hydro Electric Commission prior to January 1, 2001.

Employee future benefits
The company pays certain medical, dental and life insurance benefits on behalf of its retired employees. The company recognizes these post-retirement costs in the period in which the employees rendered the services. See note 14.

Actuarial gains/(losses)
Actuarial gains/(losses) are amortized over the expected average remaining service life of the active employees.

Regulation
The following are regulatory accounting principles which differ from Canadian GAAP for organizations operating in an unregulated environment:

Regulatory Assets and Liabilities
The company has certain costs and variance balances which have been deferred as regulatory assets or liabilities until the timing of recovery of these costs from electricity distribution ratepayers. The recovery of these costs will be subject to review and approval of the OEB. See note 13.

Payments in lieu of income taxes and capital taxes
Under the Electricity Act, 1998, the company is required to make payments in lieu of corporate taxes to Ontario Electricity Financial Corporation (OEFC), commencing October 1, 2001. These payments are calculated in accordance with the rules for computing income and taxable capital and other relevant amounts contained in the Income Tax Act (Canada) and the Corporations Tax Act (Ontario) as modified by the Electricity Act, 1998, and related regulations.

The company provides for payments in lieu of corporate income taxes using the taxes payable method. Under the taxes payable method, no provisions are made for future income taxes as a result of temporary differences between the tax basis of assets and liabilities and their carrying amounts for accounting purposes. When unrecorded future income taxes become payable, it is expected they will be included in the rates approved by the Ontario Energy Board and recovered from the customers of the Niagara Falls Hydro Inc.

2. Due from (to) Affiliated Companies

	2005 $	note 19 2004 $
Niagara Falls Hydro Holding Corporation	430,697	669,166
Niagara Falls Hydro Services Inc.	(3,650,421)	(2,847,966)
	(3,219,724)	**(2,178,800)**

Advances to and from affiliated companies are non-interest bearing and payable on demand.

3. Fixed Assets

	Cost $	Accumulated Depreciation $	2005 $	note 19 2004 $
Land and land rights	505,089		505,089	505,089
Buildings	5,808,268	1,659,684	4,148,584	4,199,712
Distribution stations	3,367,157	1,750,614	1,616,543	4,304,522
Transmission station	6,767,202	176,402	6,590,800	7,199,994
Distribution lines				
-overhead	23,332,812	9,457,605	13,875,207	10,549,815
-underground	40,201,388	18,907,206	21,294,182	21,777,017
Distribution transformers	18,362,934	9,704,759	8,658,175	8,441,325
Distribution meters	4,563,387	2,971,011	1,592,376	1,568,819
Trucks and equipment	7,625,952	5,604,477	2,021,475	1,599,666
	110,534,189	**50,231,758**	**60,302,431**	**60,145,961**

4. Current Assets

	2005 $	note 19 2004 $
Cash	9,751,105	4,457,432
Restricted cash	174,803	175,573
Accounts receivable - billed	4,785,484	5,320,463
Unbilled revenue	9,199,510	7,448,011
Deferred PILS revenue	0	45,576
Due from affiliated companies - note 2	430,697	669,166
Inventories	1,390,602	1,231,881
Prepaid expenses	245,971	184,583
Payments in lieu of corporate income taxes refundable	441,541	625,076
	26,419,713	**20,157,761**

5. Long-Term Debt

	2005 $	note 19 2004 $
Long-term note payable to the City of Niagara Falls pursuant to the transfer by-law - 7 1/4 % interest payable, effective May 1, 2002 on the implementation of the rate increases as required by the Ontario Energy Board and the Energy Competition Act. There is no immediate intent to redeem the long-term note	22,000,000	22,000,000
Long-term note payable to the Niagara Falls Hydro Holding Corporation, pursant to the transfer by-law - 7 1/4 % interest payable, effective May 1, 2002 on the implementation of the rate increases as required by the Ontario Energy Board and the Energy Competition Act. There is no immediate intent to redeem the long-term note.	3,605,090	3,605,090
Long-term bank loan payable to Scotiabank for the construction of the transmission station. Loan amortization period is for ten years commencing June 1, 2004 at a fixed interest rate of 6.44%.	7,101,824	7,710,170
	32,706,914	33,315,260
Current portion due within one year	(648,700)	(608,345)
	32,058,214	**32,706,915**

The bank loan payable is secured by a general security agreement covering all assets of the company, present and future, as well as appropriate insurance coverage, loss if any, payable to the creditor.

The principal payments of long-term debt are due as follows:

	$
2006	648,700
2007	691,732
2008	737,618
2009	786,548
2010	838,724

6. Current Liabilities

	2005 $	note 19 2004 $
Accounts payable	13,383,726	8,037,635
Due to affiliated companies - note 2	3,650,421	2,847,966
Current portion of long-term debt	648,700	608,345
Current portion of other liabilities	572,337	600,000
	18,255,184	**12,093,946**

7. Other Liabilities

	2005 $	note 19 2004 $
Long-term deposits	759,585	632,138
Employees' accumulated vested sick leave	150,083	147,191
Employee future benefits - note 14	3,504,936	3,422,854
	4,414,604	**4,202,183**

8. Share Capital

Authorized
Unlimited number of common shares

	2005 $	note 19 2004 $
Issued		
1,000 common shares	**18,899,784**	**18,899,784**

9. Statement of Cash Flows

(a) Changes in non-cash working capital components include:

	2005 $	note 19 2004 $
Accounts receivable - billed	534,979	(483,944)
Unbilled revenue	(1,751,499)	(916,473)
Inventories	(158,721)	245,508
Prepaid expenses	(61,388)	776
Payments in lieu of corporate income taxes refundable	183,535	(1,943,938)
Accounts payable	5,346,091	1,103,398
Due to affiliated companies	1,040,924	1,533,472
Deferred PILS revenue	45,576	(252,482)
	5,179,497	**(713,683)**

9. Statement of cash flow - continued

(b) Interest received and paid and payments in lieu of income taxes paid

	2005 $	note 19 2004 $
Interest received	174,072	153,562
Interest paid	2,658,316	2,165,423
Payments in lieu of income taxes paid	(538,824)	2,843,496

10. Related Party Transactions

In the ordinary course of business, the company enters into transactions with related parties including the City of Niagara Falls and its boards and agencies. The company derives revenues from the sale of electricity and recovers costs of supplying electrical equipment and distribution system from these related parties. Revenue and expenses from related parties include service revenue and municipal taxes and these transactions take place at fair market value. Account balances resulting from these transactions which are included in the balance sheet are settled in accordance with normal trade terms.

11. Contingent Liabilities

Letter of Credit
The company has arranged for a standby letter of credit of $ 10,000,000 of which $ 4,748,480 ($4,748,480 - 2004) has been drawn down in favour of the Independent Electricity Market Operator. This is to provide a prudential letter of credit in support of the purchase of electrical power.

Class Action Claim

Consumers' Gas Decision
On April 22, 2004, the Supreme Court of Canada ruled that The Consumers' Gas Company (currently Enbridge Gas Distribution Inc.) was required to repay a portion of certain late charges it collected from its customers that were in excess of the interest stipulated in section 347 of the Criminal code. The former Toronto Hydro-Electric Commission is not a party to the Consumers' Gas class action, however this action is relevant to the class action described below as the parties to the former Toronto Hydro-Electric Commission class action were awaiting the outcome of the Consumers' Gas Decision.

11. Contingent Liabilities - continued

A class action claiming $ 500 million in restitution payments plus interest was served on the former Toronto Hydro-Electric Commission on November 18, 1998. The action was initiated against the former Toronto Hydro-Electric Commission as the representative of the Defendant Class consisting of all municipal electric utilities in Ontario which have charged late payment charges on overdue utility bills at any time after April 1, 1981.

The claim is based on the premise that late payment penalties result in the municipal electric utilities receiving interest at effective rates in excess of 60% per year, which is illegal under section 347(1)(b) of the Criminal Code.

As a result of the Consumers' Gas decision, it is expected that the class action will now proceed.

The Electricity Distributors Association is undertaking the defense of this class action. At this time, it is not possible to quantify the effect, if any, on the financial statements of the Company.

12. General Liability Insurance

The company is a member of the Municipal Electric Association Reciprocal Insurance Exchange (MEARIE) which is a pooling of general liability insurance risks. Members of MEARIE would be assessed, on a pro-rata basis, based on the total of their respective deposit premiums should losses be experienced by MEARIE, in excess of reserves and supplementary insurance, for the years in which the company or the former Niagara Falls Hydro Electric Commission was a member.
To December 31, 2005, the company has not been made aware of any additional assessments.
Participation in MEARIE covers a three year underwriting period which expires January 1, 2009. Notice to withdraw from MEARIE must be given six months prior to the commencement of the next three year underwriting term.

13. Regulatory Assets

The Ontario Energy Board (the "OEB") has, in accordance with the Electricity Distribution Handbook, approved recovery of regulatory assets of $1,360,125 (2004 - $ 689,438). These amounts are for the recovery of approved regulatory assets recorded in fiscal years prior to January 1, 2004. Under this regulation revenue is $ 1,360,125 higher (2004 - $ 689,438) than in the absence of rate regulation.

In accordance with the OEB's criteria, the company recorded carrying charges on the recovered amounts of ($ 88,017), (2004 - $ 754,915). Under this regulation a carrying charge expense of $ 88,017 in 2005, (carrying charge revenue of $ 754,915 - 2004)

13. Regulatory Assets - continued

was recorded. In the absence of rate regulations, Canadian generally accepted accounting principles would require the company to reverse the carrying charges related to the regulatory assets.

Transition costs are subject to review of the company's submission and the OEB may conclude that certain costs are not eligible for recovery from distribution utility ratepayers. The OEB may then prescribe the accounting treatment of any costs deemed to be ineligible. Failing this, any ineligible costs related to capital expenditures would be transferred to capital assets and be amortized in accordance with the appropriate rate for the capital asset class. Any ineligible costs of an operational nature would be recorded as an expense on the statement of operations in the year they become ineligible. The approved balance will be recovered over a 3-year period ending March 31, 2008.

Retail settlement variances, retail cost variances, deferred payment in lieu of income taxes, other regulatory assets and conservation and demand management track the differences between certain costs incurred and the amounts recovered through the utility's rate orders. Under these regulations, expenditures are allowed to be deferred which would be expensed under Canadian generally accepted accounting principles for unregulated businsses.

Due to this regulation the company was allowed to defer these costs as regulatory assets which would have been expenesed under Canadian GAAP for unregulated businesses. As at December 31, 2005 the company has accumulated $ 3,640,154 ($3,194,999 - 2004) in regulatory assets on the balance sheet as other assets.

	2005 $	note 19 2004 $
Qualifying transition costs	129,769	662,425
Deferred payments in lieu of income taxes	(262,338)	15,502
Pre market settlement variances	2,156,378	3,167,894
Retail settlement variances	1,296,218	(1,498,625)
Retail cost variances	749,451	756,498
Other regulatory assets	208,903	91,305
Conservation and demand management	(638,227)	0
	3,640,154	**3,194,999**

14. Employee Future Benefits

Defined Benefit Plan Information

	2005 $	note 19 2004 $
Employee benefit plan assets	0	0
Employee benefit plan liabilities	2,736,167	2,586,887
Employee benefit plan deficit	2,736,167	2,586,887
Unamortized actuarial gain	768,769	835,967
Accrued benefit obligation, end of year	**3,504,936**	**3,422,854**

	2005 $	note 19 2004 $
Accrued benefit obligation, beginning of year	3,422,854	3,348,554
Expense for the year	178,808	171,026
Benefits paid for the year	(96,726)	(96,726)
Accrued benefit obligation, end of year	**3,504,936**	**3,422,854**

The main actuarial assumptions employed for the valuation are as follows:

GENERAL INFLATION - Future general inflation levels, as measured by changes in the Consumer Price Index (CPI), were assumed at 2.2% in 2003 and thereafter.

INTEREST (DISCOUNT) RATE - The obligation as at December 31, 2005, the present value of future liabilities and the expense for the year ended December 31, 2005, were determined using a discount rate of 5.5%. This corresponds to the assumed CPI rate plus an assumed real rate of return of 2.2%.

SALARY LEVELS - Future general salary and wage levels were assumed to increase at 3.5% per annum.

MEDICAL COSTS - Medical costs were assumed to increase at the CPI rate plus a further increase of 11.3% in 2003 graded down to 7.8% in 2010 and thereafter.

DENTAL COSTS - Dental costs were assumed to increase at the CPI rate plus a further increase of 3.75% in 2003 graded down to 1.3% in 2010 and thereafter.

15. Financial Instruments

Fair Value of Financial Instruments

The fair value of cash, receivables, accounts payable and accrued liabilities corresponds to their carrying value due to their short-term maturity.

Long-term debt and due from (to) affiliated companies are at a stated value. It is not practicable within the constraints of timeliness or cost to determine the fair value of these financial liabilities with sufficient reliability.

Credit Risk

The company in the normal course of business monitors the financial condition of its customers and reviews the credit history of new customers. The company is currently holding customer deposits on hand in the amount of $1,157,119 of which $584,782 is long-term and $ 572,337 is current (2004 - $1,056,565, long-term $ 456,565 and $ 600,000 current) which are reflected on the balance sheet. Allowances are also maintained for potential credit losses. Management believes that it has adequately provided for any exposure to normal customer credit risk.

Operating Line of Credit

As at December 31, 2005, the company had line of credit of $ 3,000,000 (2004 - $ 3,000,000) of which NIL has been drawn down. The line of credit is a revolving operating line that bears interest at the prime rate. The line of credit is secured by the same security described in note 5.

16. Future Income Taxes

Future income taxes relating to this regulated business have not been recorded in the accounts as they are expected to be recovered through future revenues. As at December 31, 2005, future income tax assets of $1,646,632 ($2,241,584 - 2004), based on substantively enacted income tax rates, have not been recorded. The company was not subject to payments in lieu of corporate income taxes prior to October 1, 2001.

Temporary differences and carry forwards which give rise to future income tax assets and liabilities are as follows:

	2005 $	note 19 2004 $
Excess of undepreciated capital cost over net book value of capital assets	1,679,011	2,250,479
Employee future benefits	1,265,983	1,236,335
Regulatory assets	(1,298,362)	(1,245,230)
	1,646,632	**2,241,584**

16. Future Income Taxes - continued

An independent valuation was completed effective October 1, 2001 in order to determine the fair market value of the company for the purpose of calculating payments in lieu of corporate income taxes under s. 93 of the Electricity Act. The valuation resulted in a fair market value of approximately $ 51,873,000 of tangible capital assets, an increase of approximately $ 5,070,000 over net book value as at October 1, 2001. The valuation was performed for the purposes of calculating payments in lieu of corporate income taxes only and has not been reflected as an adjustment to net book value for accounting purposes.

17. Income Taxes

The reconciliation of the company's effective income tax rate for payments in lieu of corporate income taxes is as follows:

	2005 %	note 19 2004 %
Combined basic federal and provincial statutory tax rate	36.12	36.12
Regulatory assets added (deducted) for income tax purposes	(66.02)	2.89
Amortization in excess of capital cost allowance	25.24	8.52
Large corporations tax	6.00	0.76
Adjustment to 2004 tax provision	(51.00)	0
Other	4.58	0.25
Effective Tax Rate	**(45.08)**	**48.54**

18. Subsequent Events

In April, 2005 the company applied for Scientific Research and Experimental Development tax credits from the Federal government for the December 31, 2003 taxation year. The company is entitled to Federal Investment Tax Credits of $ 218,750 for the year ended December 31, 2003. The costs incurred in the preparation of the Federal Research and Development tax credit will be expensed in the taxation year that the credits are received.

19. Comparative Figures

Certain prior year figures have been reclassified to conform to the current year's presentation.

NIAGARA FALLS HYDRO INC.

Financial Statements

December 31, 2006

CRAWFORD, SMITH & SWALLOW
Chartered Accountants LLP
D R A F T
FOR DISCUSSION PURPOSES ONLY
SUBJECT TO AMENDMENT

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crawford smith & swallow

CRAWFORD, SMITH & SWALLOW
Chartered Accountants LLP
DRAFT
FOR DISCUSSION PURPOSES ONLY
SUBJECT TO AMENDMENT

AUDITORS' REPORT

To the Board Members and Shareholder of Niagara Falls Hydro Inc.

We have audited the balance sheet of Niagara Falls Hydro Inc. as at December 31, 2006 and the statements of operations, retained earnings and cash flows for the year then ended. These financial statements are the responsibility of the company's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In our opinion, these financial statements present fairly, in all material respects, the financial position of the company as at December 31, 2006 and the results of its operations and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

Niagara Falls, Ontario
March 30, 2007

CRAWFORD, SMITH AND SWALLOW
CHARTERED ACCOUNTANTS LLP

NIAGARA FALLS HYDRO INC.

BALANCE SHEET
December 31, 2006

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	2006 $	2005 $
Assets - note 5		
Fixed Assets - note 3	60,620,017	60,302,431
Current Assets - note 4	28,979,110	26,419,713
Regulatory Assets - note 13	620,523	3,640,154
	90,219,650	**90,362,298**

Liabilities and Shareholder's Equity

Long-Term Debt - note 5	31,366,482	32,058,214
Current Liabilities - note 6	17,439,137	18,255,184
Other Liabilities - notes 7 and 14	4,410,847	4,414,604
Shareholder's Equity		
Share capital - note 8	18,899,784	18,899,784
Paid-up capital	6,705,305	6,705,305
Retained Earnings	11,398,095	10,029,207
	37,003,184	35,634,296
	90,219,650	**90,362,298**

Signed on behalf of the Board:

_____ Director

_____ Director

See accompanying notes

NIAGARA FALLS HYDRO INC.

STATEMENT OF RETAINED EARNINGS

for the year ended December 31, 2006

	2006 $	2005 $
Retained Earnings, Beginning of Year	10,029,207	8,890,588
Net Income for the Year	1,368,888	1,138,619
Retained Earnings, End of Year	11,398,095	10,029,207

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See accompanying notes

NIAGARA FALLS HYDRO INC.

STATEMENT OF OPERATIONS

for the year ended December 31, 2006

	2006 $	2005 $
Service Revenue		
Standard supply charge	49,788,760	56,324,377
Wholesale, network and connection charges	13,856,983	14,105,573
Service charge	8,483,542	7,488,547
Distribution volumetric charge	7,712,480	6,251,593
Standard supply service administration charge	84,767	88,481
Retailer revenue	57,919	43,001
Other income	(14,543)	(29,224)
	79,969,908	84,272,348
Cost of Power		
Power Purchased	63,645,743	70,429,950
Gross Profit	16,324,165	13,842,398
Other Revenue	1,721,740	1,733,903
	18,045,905	15,576,301
Expenses		
Operation and maintenance		
Distribution	3,383,943	3,493,734
Utilization	171,073	248,701
Administration and general	4,411,501	4,714,344
Billing and collecting	2,506,306	2,240,667
Depreciation	4,354,697	4,057,011
Extraordinary deductions	0	37,014
	14,827,520	14,791,471
Net Income before Payments in Lieu of Income Taxes	3,218,385	784,830
Payments in Lieu of Income Taxes	1,849,497	(353,789)
Net Income for the Year	1,368,888	1,138,619

See accompanying notes

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NIAGARA FALLS HYDRO INC.

STATEMENT OF CASH FLOWS

for the year ended December 31, 2006

	2006 $	2005 $
Cash Provided By:		
Operations		
Net Income for the year	1,368,888	1,138,619
Items not involving cash		
Depreciation	4,354,697	4,057,011
Employee future benefits	6,425	82,082
	5,730,010	5,277,712
Changes in non-cash working capital components - note 9(a)	(1,540,582)	5,179,497
	4,189,428	10,457,209
Investments		
Additions to property and equipment - net	(4,672,285)	(4,213,481)
Regulatory costs - note 13	3,019,631	(445,155)
	(1,652,654)	(4,658,636)
Financing		
Long-term deposits	13,473	99,784
Long-term bank loan	(648,700)	(608,346)
Employees' accumulated vested sick leave	3,028	2,892
	(632,199)	(505,670)
Increase in Cash Position	1,904,575	5,292,904
Cash Position, Beginning of Year	9,925,908	4,633,005
Cash Position, End of Year	11,830,483	9,925,908
Cash Position		
Cash	11,696,355	9,751,105
Restricted cash	134,128	174,803
	11,830,483	9,925,908

See accompanying notes

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Incorporation

On April 1, 2000, Niagara Falls Hydro Inc. was incorporated under the Business Corporations Act (Ontario) along with its affiliate companies, Niagara Falls Hydro Holding Corporation and Niagara Falls Hydro Services Inc. The incorporation was pursuant to the provisions of the Energy Competition Act, 1998.

1. Significant accounting policies

These financial statements of Niagara Falls Hydro Inc. have been prepared in accordance with Canadian generally accepted accounting principles, including accounting principles prescribed in the accounting procedures handbook for electric distribution utilities by the Ontario Energy Board. The company is a wholly-owned subsidiary of Niagara Falls Hydro Holding Corporation.

Revenue recognition

Service revenue from the sale of electrical energy includes an accrual for power supplied but not billed to customers from the date the meters were last read to the year end.

Fixed assets and depreciation

Fixed assets are stated at acquisition cost. Much of the distribution system is constructed by the company and is capitalized based on actual costs. Depreciation is determined on a straight-line basis with reference to estimated useful lives of the assets in accordance with the Ontario Energy Board policy. Depreciation periods for the fixed assets range from 4 years to 60 years.

Inventory

Inventory is valued at the lower of moving average cost and replacement cost. Inventory is comprised of material and supplies used to maintain and upgrade the electrical distribution system.

Ontario Municipal Employees Retirement System

The company makes contributions to the Ontario Municipal Employees Retirement System (OMERS), which is a multi-employer plan, on behalf of 75 members of its staff. The plan is a defined benefit plan which specifies the amount for the retirement benefit to be received by the employees based on the length of service and rates of pay.

The amount contributed to OMERS for the year ending December 31, 2006 was $349,259 (2005 - $298,191) for current service.

Long-term deposits

Deposits are considered long-term liabilities. Any deposits expected to be refunded in the next year in excess of deposits expected to be received have been shown as current liabilities.

Employee's accumulated vested sick benefits

Under the sick leave plan unused vested sick leave can accumulate and employees of the company as at April 1, 1987 can request at any time and will receive payment if funds are available as determined by the company. Full provisions for the liability, to the

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1. Significant Accounting Policies - continued

Employee's accumulated vested sick benefits - continued
extent that cash payments to employees might be required, have been made in these financial statements.
Employees of the Corporation and company hired after March 31, 1987 can accumulate unused sick leave but it does not become vested at any time.

Paid-up capital
Paid-up capital reflects the balance of capital contributions received by the former Niagara Falls Hydro Electric Commission prior to January 1, 2001.

Employee future benefits
The company pays certain medical, dental and life insurance benefits on behalf of its retired employees. The company recognizes these post-retirement costs in the period in which the employees rendered the services. See note 14.

Actuarial gains/(losses)
Actuarial gains/(losses) are amortized over the expected average remaining service life of the active employees.

Regulation
The following are regulatory accounting principles which differ from Canadian GAAP for organizations operating in an unregulated environment:

Regulatory Assets and Liabilities
The company has certain costs and variance balances which have been deferred as regulatory assets or liabilities until the timing of recovery of these costs from electricity distribution ratepayers. The recovery of these costs will be subject to review and approval of the OEB. See note 13.

Payments in lieu of income taxes and capital taxes
Under the Electricity Act, 1998, the company is required to make payments in lieu of corporate taxes to Ontario Electricity Financial Corporation (OEFC), commencing October 1, 2001. These payments are calculated in accordance with the rules for computing income and taxable capital and other relevant amounts contained in the Income Tax Act (Canada) and the Corporations Tax Act (Ontario) as modified by the Electricity Act, 1998, and related regulations.

The company provides for payments in lieu of corporate income taxes using the taxes payable method. Under the taxes payable method, no provisions are made for future income taxes as a result of temporary differences between the tax basis of assets and liabilities and their carrying amounts for accounting purposes. When unrecorded future income taxes become payable, it is expected they will be included in the rates approved by the Ontario Energy Board and recovered from the customers of the Niagara Falls Hydro Inc.

2. Due from (to) Affiliated Companies

	2006 $	2005 $
Niagara Falls Hydro Holding Corporation	180,257	430,697
Niagara Falls Hydro Services Inc.	(5,946,924)	(3,650,421)
	(5,766,667)	**(3,219,724)**

Advances to and from affiliated companies are non-interest bearing and payable on demand.

3. Fixed Assets

	Cost $	Accumulated Depreciation $	2006 $	2005 $
Land and land rights	505,089		505,089	505,089
Buildings	5,849,224	1,761,629	4,087,595	4,148,584
Distribution stations	3,367,157	1,839,324	1,527,833	1,616,543
Transmission station	6,548,452	317,499	6,230,953	6,590,800
Distribution lines				
-overhead	24,918,883	10,380,104	14,538,779	13,875,207
-underground	41,946,539	20,432,385	21,514,154	21,294,182
Distribution transformers	19,055,670	10,243,843	8,811,827	8,658,175
Distribution meters	4,630,442	2,941,956	1,688,486	1,592,376
Trucks and equipment	8,107,583	6,392,282	1,715,301	2,021,475
	114,929,039	**54,309,022**	**60,620,017**	**60,302,431**

4. Current Assets

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	2006 $	2005 $
Cash	11,696,355	9,751,105
Restricted cash	134,128	174,803
Accounts receivable - billed	6,767,000	4,785,484
Unbilled revenue	8,428,024	9,199,510
Due from affiliated companies - note 2	180,257	430,697
Inventories	1,575,635	1,390,602
Prepaid expenses	197,711	245,971
Payments in lieu of corporate income taxes refundable	0	441,541
	28,979,110	**26,419,713**

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5. Long-Term Debt

	2006 $	2005 $
Long-term note payable to the City of Niagara Falls pursuant to the transfer by-law - 7 1/4 % interest payable, effective May 1, 2002 on the implementation of the rate increases as required by the Ontario Energy Board and the Energy Competition Act. There is no immediate intent to redeem the long-term note	22,000,000	22,000,000
Long-term note payable to the Niagara Falls Hydro Holding Corporation, pursant to the transfer by-law - 7 1/4 % interest payable, effective May 1, 2002 on the implementation of the rate increases as required by the Ontario Energy Board and the Energy Competition Act. There is no immediate intent to redeem the long-term note.	3,605,090	3,605,090
Long-term bank loan payable to Scotiabank for the construction of the transmission station. Loan amortization period is for ten years commencing June 1, 2004 at a fixed interest rate of 6.44%.	6,453,124	7,101,824
	32,058,214	32,706,914
Current portion due within one year	(691,732)	(648,700)
	31,366,482	**32,058,214**

The bank loan payable is secured by a general security agreement covering all assets of the company, present and future, as well as appropriate insurance coverage, loss if any, payable to the creditor.

The principal payments of long-term debt are due as follows:

	$
2007	691,732
2008	737,618
2009	786,548
2010	838,724
2011	894,361

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6. Current Liabilities

	2006 $	2005 $
Accounts payable	9,171,975	13,383,726
Payments in lieu of corporate income taxes payable	1,029,486	0
Due to affiliated companies - note 2	5,946,924	3,650,421
Current portion of long-term debt	691,732	648,700
Current portion of other liabilities	599,020	572,337
	17,439,137	**18,255,184**

7. Other Liabilities

	2006 $	2005 $
Long-term deposits	746,375	759,585
Employees' accumulated vested sick leave	153,111	150,083
Employee future benefits - note 14	3,511,361	3,504,936
	4,410,847	**4,414,604**

8. Share Capital

Authorized
Unlimited number of common shares

	2006 $	2005 $
Issued		
1,000 common shares	**18,899,784**	**18,899,784**

9. Statement of Cash Flows

(a) Changes in non-cash working capital components include:

	2006 $	2005 $
Accounts receivable - billed	(1,981,516)	534,979
Unbilled revenue	771,486	(1,751,499)
Inventories	(185,033)	(158,721)
Prepaid expenses	48,260	(61,388)
Payments in lieu of corporate income taxes	1,471,027	183,535
Accounts payable	(4,211,749)	5,346,091
Due to affiliated companies	2,546,943	1,040,924
Deferred PILS revenue	0	45,576
	(1,540,582)	**5,179,497**

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9. Statement of cash flow - continued

(b) Interest received and paid and payments in lieu of income taxes paid

	2006 $	2005 $
Interest received	356,777	174,072
Interest paid	2,329,318	2,658,316
Payments in lieu of income taxes paid	579,262	(538,824)

10. Related Party Transactions

In the ordinary course of business, the company enters into transactions with related parties including the City of Niagara Falls and its boards and agencies. The company derives revenues from the sale of electricity and recovers costs of supplying electrical equipment and distribution system from these related parties. Revenue and expenses from related parties include service revenue and municipal taxes and these transactions take place at fair market value. Account balances resulting from these transactions which are included in the balance sheet are settled in accordance with normal trade terms.

11. Contingent Liabilities

Letter of Credit
The company has arranged for a standby letter of credit of $ 10,000,000 of which $ 4,748,480 ($4,748,480 - 2005) has been drawn down in favour of the Independent Electricity Market Operator. This is to provide a prudential letter of credit in support of the purchase of electrical power.

Class Action Claim

Consumers' Gas Decision
On April 22, 2004, the Supreme Court of Canada ruled that The Consumers' Gas Company (currently Enbridge Gas Distribution Inc.) was required to repay a portion of certain late charges it collected from its customers that were in excess of the interest stipulated in section 347 of the Criminal code. The former Toronto Hydro-Electric Commission is not a party to the Consumers' Gas class action, however this action is relevant to the class action described below as the parties to the former Toronto Hydro-Electric Commission class action were awaiting the outcome of the Consumers' Gas Decision.

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11. Contingent Liabilities - continued

A class action claiming $ 500 million in restitution payments plus interest was served on the former Toronto Hydro-Electric Commission on November 18, 1998. The action was initiated against the former Toronto Hydro-Electric Commission as the representative of the Defendant Class consisting of all municipal electric utilities in Ontario which have charged late payment charges on overdue utility bills at any time after April 1, 1981.

The claim is based on the premise that late payment penalties result in the municipal electric utilities receiving interest at effective rates in excess of 60% per year, which is illegal under section 347(1)(b) of the Criminal Code.

As a result of the Consumers' Gas decision, it is expected that the class action will now proceed.

The Electricity Distributors Association is undertaking the defense of this class action. At this time, it is not possible to quantify the effect, if any, on the financial statements of the Company.

12. General Liability Insurance

The company is a member of the Municipal Electric Association Reciprocal Insurance Exchange (MEARIE) which is a pooling of general liability insurance risks. Members of MEARIE would be assessed, on a pro-rata basis, based on the total of their respective deposit premiums should losses be experienced by MEARIE, in excess of reserves and supplementary insurance, for the years in which the company or the former Niagara Falls Hydro Electric Commission was a member.
To December 31, 2006, the company has not been made aware of any additional assessments.
Participation in MEARIE covers a three year underwriting period which expires January 1, 2009. Notice to withdraw from MEARIE must be given six months prior to the commencement of the next three year underwriting term.

13. Regulatory Assets

The Ontario Energy Board (the "OEB") has, in accordance with the Electricity Distribution Handbook, approved recovery of regulatory assets of $1,073,574 (2005 - $ 1,360,125). These amounts are for the recovery of approved regulatory assets recorded in fiscal years prior to January 1, 2004. Under this regulation revenue is $ 1,073,574 higher (2005 - $ 1,360,125) than in the absence of rate regulation.

In accordance with the OEB's criteria, the company recorded carrying charges on the recovered amounts of ($ 150,587), (2005 - ($ 88,017)). Under this regulation a carrying charge expense of $ 150,587 in 2006, (carrying charge expense of $ 88,017 - 2005)

13. Regulatory Assets - continued

was recorded. In the absence of rate regulations, Canadian generally accepted accounting principles would require the company to reverse the carrying charges related to the regulatory assets.

Transition costs are subject to review of the company's submission and the OEB may conclude that certain costs are not eligible for recovery from distribution utility ratepayers. The OEB may then prescribe the accounting treatment of any costs deemed to be ineligible. Failing this, any ineligible costs related to capital expenditures would be transferred to capital assets and be amortized in accordance with the appropriate rate for the capital asset class. Any ineligible costs of an operational nature would be recorded as an expense on the statement of operations in the year they become ineligible.

Retail settlement variances, retail cost variances, deferred payment in lieu of income taxes, other regulatory assets and conservation and demand management track the differences between certain costs incurred and the amounts recovered through the utility's rate orders. Under these regulations, expenditures are allowed to be deferred which would be expensed under Canadian generally accepted accounting principles for unregulated businsses.

Due to this regulation the company was allowed to defer these costs as regulatory assets which would have been expenesed under Canadian GAAP for unregulated businesses. As at December 31, 2006 the company has accumulated $ 620,523 ($3,640,154 - 2005) in regulatory assets on the balance sheet as other assets.

	2006 $	2005 $
Qualifying transition costs	0	129,769
Deferred payments in lieu of income taxes	(392,317)	(262,338)
Pre market settlement variances	755,751	2,156,378
Retail settlement variances	11,011	1,296,218
Retail cost variances	795,424	749,451
Other regulatory assets	185,790	208,903
Conservation and demand management	(679,313)	(638,227)
Smart meter recovery variances	(55,823)	0
	620,523	**3,640,154**

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14. Employee Future Benefits

Defined Benefit Plan Information

	2006 $	2005 $
Employee benefit plan assets	0	0
Employee benefit plan liabilities	2,436,517	2,736,167
Employee benefit plan deficit	2,436,517	2,736,167
Unamortized actuarial gain	1,074,844	768,769
Accrued benefit obligation, end of year	**3,511,361**	**3,504,936**

	2006 $	2005 $
Accrued benefit obligation, beginning of year	3,504,936	3,422,854
Benefit Income/(Expense) for the year	112,935	178,808
Contributions/Benefit payments by the Employer	(106,510)	(96,726)
Accrued benefit obligation, end of year	**3,511,361**	**3,504,936**

The main actuarial assumptions employed for the valuation are as follows:

GENERAL INFLATION - Future general inflation levels, as measured by changes in the Consumer Price Index (CPI), were assumed at 2.1% in 2006 and thereafter.

INTEREST (DISCOUNT) RATE - The obligation as at December 31, 2006, the present value of future liabilities and the expense for the year ended December 31, 2006, were determined using a discount rate of 5.0%. This corresponds to the assumed CPI rate plus an assumed real rate of return of 2.1%.

SALARY LEVELS - Future general salary and wage levels were assumed to increase at 3.3% per annum.

MEDICAL COSTS - Medical costs were assumed to increase at the CPI rate plus a further increase of 6.9% in 2007 graded down to 4.9% in 2010 and thereafter.

DENTAL COSTS - Dental costs were assumed to increase at the CPI rate plus a further increase of 2.9% in 2007 to 2010 and thereafter.

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15. Financial Instruments

Fair Value of Financial Instruments

The fair value of cash, receivables, accounts payable and accrued liabilities corresponds to their carrying value due to their short-term maturity.

Long-term debt and due from (to) affiliated companies are at a stated value. It is not practicable within the constraints of timeliness or cost to determine the fair value of these financial liabilities with sufficient reliability.

Credit Risk

The company in the normal course of business monitors the financial condition of its customers and reviews the credit history of new customers. The company is currently holding customer deposits on hand in the amount of $1,211,266 of which $612,246 is long-term and $ 599,020 is current (2005 - $1,157,119, long-term $ 584,782 and $ 572,337 current) which are reflected on the balance sheet. Allowances are also maintained for potential credit losses. Management believes that it has adequately provided for any exposure to normal customer credit risk.

Operating Line of Credit

As at December 31, 2006, the company had line of credit of $ 3,000,000 (2005 - $ 3,000,000) of which NIL has been drawn down. The line of credit is a revolving operating line that bears interest at the prime rate. The line of credit is secured by the same security described in note 5.

16. Future Income Taxes

Future income taxes relating to this regulated business have not been recorded in the accounts as they are expected to be recovered through future revenues. As at December 31, 2006, future income tax assets of $ 2,849,967 ($1,646,632 - 2005), based on substantively enacted income tax rates, have not been recorded. The company was not subject to payments in lieu of corporate income taxes prior to October 1, 2001.

Temporary differences and carry forwards which give rise to future income tax assets and liabilities are as follows:

	2006 $	2005 $
Excess of undepreciated capital cost over net book value of capital assets	1,805,796	1,679,011
Employee future benefits	1,268,304	1,265,983
Regulatory assets	(224,133)	(1,298,362)
	2,849,967	**1,646,632**

16. Future Income Taxes - continued

An independent valuation was completed effective October 1, 2001 in order to determine the fair market value of the company for the purpose of calculating payments in lieu of corporate income taxes under s. 93 of the Electricity Act. The valuation resulted in a fair market value of approximately $ 51,873,000 of tangible capital assets, an increase of approximately $ 5,070,000 over net book value as at October 1, 2001. The valuation was performed for the purposes of calculating payments in lieu of corporate income taxes only and has not been reflected as an adjustment to net book value for accounting purposes.

17. Income Taxes

The reconciliation of the company's effective income tax rate for payments in lieu of corporate income taxes is as follows:

	2006 %	2005 %
Combined basic federal and provincial statutory tax rate	36.12	36.12
Regulatory assets added (deducted) for income tax purposes	18.53	(66.02)
Amortization in excess of capital cost allowance	8.87	25.24
Large corporations tax	0	6.00
Adjustment to 2003 tax provision	(5.90)	(51.00)
Other	(0.16)	4.58
Effective Tax Rate	**57.46**	**(45.08)**

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NIAGARA FALLS HYDRO INC.

STATEMENT OF OPERATIONS

for the year ended December 31, 2006

	2006 $	2005 $
Service Revenue		
Standard supply charge	49,788,760	56,324,377
Wholesale, network and connection charges	13,856,983	14,105,573
Service charge	8,483,542	7,488,547
Distribution volumetric charge	7,712,480	6,251,593
Standard supply service administration charge	84,767	88,481
Retailer revenue	57,919	43,001
Other income	(14,543)	(29,224)
	79,969,908	84,272,348
Cost of Power		
Power Purchased	63,645,743	70,429,950
Gross Profit	16,324,165	13,842,398
Other Revenue	1,721,740	1,733,903
	18,045,905	15,576,301
Expenses		
Operation and maintenance		
Distribution	3,383,943	3,493,734
Utilization	171,073	248,701
Administration and general	4,411,501	4,714,344
Billing and collecting	2,506,306	2,240,667
Depreciation	4,354,697	4,057,011
Extraordinary deductions	0	37,014
	14,827,520	14,791,471
Net Income before Payments in Lieu of Income Taxes	3,218,385	784,830
Payments in Lieu of Income Taxes	1,849,497	(353,789)
Net Income for the Year	1,368,888	1,138,619

See accompanying notes



Financial Statements of

PENINSULA WEST UTILITIES LIMITED

Year ended December 31, 2006

PENINSULA WEST UTILITIES LIMITED

Financial Statements

Year ended December 31, 2006

Financial Statements

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KPMG

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AUDITORS' REPORT

To the Shareholder of Peninsula West Utilities Limited

We have audited the balance sheet of Peninsula West Utilities Limited as at December 31, 2006 and the statements of earnings and retained earnings and cash flows for the year then ended. These financial statements are the responsibility of the Corporation's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In our opinion, these financial statements present fairly, in all material respects, the financial position of the Corporation as at December 31, 2006 and the results of its operations and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

KPMG LLP

Chartered Accountants

St. Catharines, Canada
March 30, 2007

KPMG LLP, is a Canadian limited liability partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International, a Swiss cooperative

	2006	2005
Liabilities and Shareholder's Equity		
Current liabilities:		
Accounts payable and accrued liabilities	$ 7,401,181	$ 7,058,990
Current portion of customer deposits	130,201	63,939
Current portion of capital lease	21,641	21,641
Current portion of long-term liabilities (note 6)	9,523,618	22,229
	17,076,641	7,166,799
Long-term liabilities:		
Long-term debt (note 6)	-	9,523,618
Capital lease (note 7)	61,207	77,570
Customer deposits	296,247	365,465
	357,454	9,966,653
Shareholder's equity:		
Capital stock :		
Unlimited number of common shares		
Issued:		
100 common shares	12,346,098	12,346,098
Retained earnings	3,768,829	3,039,528
	16,114,927	15,385,626
Contingent liabilities (note 10)		
	$ 33,549,022	$ 32,519,078

See accompanying notes to financial statements.

On behalf of the Board:

_____ Director

_____ Director

PENINSULA WEST UTILITIES LIMITED

Statement of Earnings and Retained Earnings

Year ended December 31, 2006, with comparative figures for 2005

	2006	2005
Service revenue	$ 35,025,202	$ 38,074,108
Cost of power	27,066,024	29,712,613
Gross Margin	7,959,178	8,361,495
Other revenue	539,085	747,130
	8,498,263	9,108,625
Expenses:		
Operation maintenance	2,125,256	2,396,303
Administration	2,479,753	2,167,646
Depreciation	2,312,328	2,128,407
Interest on term loan	550,141	568,966
	7,467,478	7,261,322
Earnings before the undernoted	1,030,785	1,847,303
Unusual items (note 14)	-	338,244
Earnings before payment in lieu of taxes	1,030,785	2,185,547
Payment in lieu of taxes:		
Current	738,484	1,137,000
Future reduction	(437,000)	(267,000)
	301,484	870,000
Net earnings	729,301	1,315,547
Retained earnings, beginning of year	3,039,528	1,723,981
Retained earnings, end of year	$ 3,768,829	$ 3,039,528

See accompanying notes to financial statements.

PENINSULA WEST UTILITIES LIMITED

Statement of Cash Flows

Year ended December 31, 2006, with comparative figures for 2005

	2006	2005
Cash provided by (used in):		
Operations:		
Net earnings	$ 729,301	$ 1,315,547
Items not involving cash:		
Depreciation	2,312,328	2,128,407
Future payment in lieu of taxes	(437,000)	(267,000)
Change in non-cash operating working capital (note 8)	(1,078,308)	1,371,457
Change in customer deposits	(2,956)	13,994
	1,523,365	4,562,405
Financing:		
Repayment in long-term debt	(22,229)	(2,020,839)
Repayment of capital lease	(16,363)	(15,451)
Capital contributions	-	418,360
	(38,592)	(1,617,930)
Investments:		
Reduction in regulatory assets	763,124	1,185,951
Addition to capital assets	(3,618,321)	(2,062,903)
	(2,855,197)	(876,952)
Increase (decrease) in cash	(1,370,424)	2,067,523
Cash, beginning of year	2,980,530	913,007
Cash, end of year	$ 1,610,106	$ 2,980,530

See accompanying notes to financial statements.

PENINSULA WEST UTILITIES LIMITED

Notes to Financial Statements

Year ended December 31, 2006

On October 25, 2000, Peninsula West Utilities Limited (the "Corporation") was incorporated under the Business Corporations Act with net assets contributed from the predecessor hydro-electric commissions. The Corporation is a regulated distribution company and provides electricity distribution and related services to its commercial and residential customers.

1. Significant accounting policies:

The financial statements have been prepared in accordance with Canadian generally accepted accounting principles. Significant accounting policies are as follows:

(a) Service revenue:

Service revenue is recorded as revenue in the period to which it relates. Revenue is accrued from the last meter reading date to the end of the year.

(b) Inventory:

Inventory is valued at the lower of weighted average cost and net realizable value.

(c) Property and equipment:

Property and equipment are stated at cost. Depreciation is provided over the estimated life of the assets on a straight-line basis as follows:

Asset	Rate
Easements	25 - 40 years
Plant	10 - 25 years
Equipment	5 - 10 years
Leasehold improvements	Over the lease term

(d) Capital contributions:

Capital contributions received after January 1, 2000 are deferred and amortized on the same basis as the related asset.

(e) Investments:

Investments are recorded at cost.

1. Significant accounting policies (continued):

(f) Payment in lieu of taxes ("PILs"):

The Corporation is currently exempt from taxes under the Income Tax Act (Canada) ("ITA") and the Ontario Corporations Tax Act ("OCTA"). Pursuant to the Electricity Act, 1998 (Ontario) ("EA"), the Corporation is required to compute taxes under the ITA and OCTA and remit such amounts thereunder computed to the Ministry of Finance (Ontario).

The Corporation provides for PILs using the asset and liability method. Under this method, future tax assets and liabilities are recognized, to the extent such are determined likely to be realized, for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Future tax assets and liabilities are measured using enacted or substantively enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on future tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the date of enactment or substantive enactment. When unrecorded future income taxes become payable, it is expected that they will be included in the rates approved by the Ontario Energy Board ("OEB") and recovered from the customers of the Corporation at that time.

PILs recoverable from loss carryforwards are recorded in future payments in lieu of taxes on the balance sheet at the current enacted statutory tax rates expected to apply when recovery of the loss carryforwards are expected to be recovered.

(g) Derivative financial instruments:

The Corporation is party to certain derivative financial instruments, principally interest rate swap contracts (used to manage the exposure to interest rates cash flow risk). These instruments are not recognized in the financial statements on inception. Payments and receipts under interest rate swap contracts are recognized as adjustments to interest expense on long-term debt.

Derivative financial instruments are utilized by the Corporation in the management of its interest rate exposures. The Corporation's policy is not to utilize derivative financial instruments for trading or speculative purposes.

1. Significant accounting policies (continued):

(g) Derivative financial instruments (continued):

The Corporation formally documents all relationships between hedging instruments and hedged items, as well as its risk management objective and strategy for undertaking interest rate hedge transaction. This process includes linking the derivative to specific debt on the balance sheet. The Corporation also formally assesses, both at the hedge's inception and on an ongoing basis, whether the derivative that is used in hedging transaction is highly effective in offsetting changes in variable interest rate of the debt.

The Corporation has entered into interest rate swaps in order to reduce the impact of fluctuating interest rates on its term loan. These swap agreements require the periodic exchange of payments without the exchange of the notional principal amount on which the payments are based. The Corporation designates its interest rate hedge agreements as hedges of the underlying debt. Interest expense on the debt is adjusted to include the payments made or received under the interest rate swaps.

(h) Measurement uncertainty:

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the amounts reported in the financial statements and note disclosures related thereto. Due to the inherent uncertainty in making estimates, actual results could differ from these estimates recorded in preparing these financial statements including changes as a result of future regulatory decisions.

Accounts receivable, unbilled revenue and regulatory assets are stated after evaluation of amounts expected to be collected and an appropriate allowance for doubtful accounts. Inventory is recorded net of provisions for obsolescence. Amounts recorded for depreciation and amortization of equipment are based on estimates of useful service life.

2. Investment:

The Corporation owns 120 non-voting Class A special shares of Niagara West Transformation Corporation, a joint venture of the Corporation's parent, valued at a cost of $1,200,000. This investment has been accounted for at cost since the Corporation's parent owns the voting shares and as a result, Niagara West Transformation Corporation is consolidated with the parent's results.

3. Property and equipment:

			2006	2005
	Cost	Accumulated amortization	Net book value	Net book value
Easements	$ 1,859,525	$ 463,824	$ 1,395,701	$ 1,359,411
Plant	43,290,231	21,249,429	22,040,802	20,937,709
Equipment	3,130,183	1,828,878	1,301,305	1,009,482
Leasehold improvements	120,252	119,367	885	3,271
Capital contributions	(5,699,818)	(850,606)	(4,849,212)	(4,726,385)
	$ 42,700,373	$ 22,810,892	$ 19,889,481	$ 18,583,488

4. Rate regulation:

The Corporation is regulated by the Ontario Energy Board ("OEB"), under the authority granted by the Ontario Energy Board Act (1998). The OEB has the power and responsibility to approve or fix rates for the transmission and distribution of electricity, providing continued rate protection for electricity consumers, and ensuring that distribution companies fulfill obligations to connect and service customers. The OEB may also prescribe license requirements and conditions of service to electricity distributors which may include, among other things, record keeping, regulatory accounting principles, separation of accounts for distinct businesses, and filing and process requirements for rate setting purposes. In its capacity to approve or set rates, the OEB has the authority to specify regulatory accounting treatments that may differ from Canadian generally accepted accounting principles for enterprises operating in a non-rate regulated environment.

In January 2000, the OEB established that distribution rates would be subject to Performance Based Regulation ("PBR"), a method of regulation whereby distribution rates are reduced annually to reflect productivity improvements required of the Corporation. Under this rate methodology, rates also include regulated amounts for return on Corporation equity and debt, which were initially determined by the OEB to be 9% and 7.25%, respectively. While the initial PBR regulatory framework provided for those regulatory rates of return, subsequent regulation and Provincial Government initiatives prevented distribution companies from fully achieving the theoretical rate of return on equity.

In 2005, the Corporation filed rate applications to adjust its distribution charges to provide for the full theoretical regulatory rate of return of 9.88% and continued recovery of its regulatory assets. As mandated by the OEB, the rate increase is subject to a financial commitment by the Corporation to invest $454,460 in conservation and demand management activities over the period July 1, 2005 to September 30, 2007.

In 2006, the OEB approved the Corporation's 2006 distribution rates providing for a revised rate of return of 9.0% effective May 1, 2006.

5. Regulatory assets:

	2006	2005
Regulatory assets:		
Qualifying costs recoverable	$ -	$ 560,534
Pre-market opening energy variance	-	1,136,479
Settlement variances	(1,474,245)	136,018
Smart meters	61,476	-
Regulatory asset recovery amount	2,482,676	-
	$ 1,069,907	$ 1,833,031

Net regulatory assets (liabilities) represent variance between costs incurred by the Corporation and amounts billed to the consumer at OEB approved rates less recoveries. These amounts have been accumulated pursuant to the Electricity Act and deferred in anticipation of their future recovery in electricity distribution rates. Management assesses the future uncertainty with respect to the final regulatory disposition of those amounts, and to the extent required, makes accounting provisions to reduce the deferred balances accumulated or to increase the recorded liabilities. Upon rendering of the final regulatory decision adjusting distribution rates, the provisions are adjusted to reflect the final impact of that decision, and such adjustment is reflected in net earnings for the period.

Regulatory assets (liabilities) earn (incur) interest at the rates ranging from 4.18% to 7.25% simple interest per annum during 2006.

Qualifying costs recoverable - represent specific and incremental costs to the Corporation for systems and process changes to support the opening of the competitive electricity market in Ontario on May 1, 2002 ("Market Opening"). These costs have been deferred pursuant to regulation underlying the EA and are subject to review and approval for recovery by the Ontario Energy Board ("OEB"). The Corporation filed for recovery of these costs in February, 2004 and it is expected that these costs will be recovered over a three year period. As prescribed by the OEB, these costs have been moved to the regulatory asset recovery amount.

Pre-market opening cost of energy variances - represent the excess of the cost of the commodity electricity to the Corporation over the amount billed to its customers prior to Market Opening. The Corporation filed for recovery of these costs in February, 2004 and it is expected that these costs will be recovered over a three year period. As prescribed by the OEB, these costs have been moved to the regulatory asset recovery amount.

5. **Regulatory assets (continued):**

Post-market opening retail settlement variances - represent amounts that have accumulated since Market Opening and comprise:

(a) variances between amounts charged by the Independent Electricity System Operator ("IESO") for the operation of the wholesale electricity market and grid, various wholesale market settlement charges and transmission charges, and the amounts billed to customers by the Corporation based on the OEB approved wholesale market service rate; and

(b) variances between the amounts charged by the IESO for energy community costs and the amounts billed to customers by the Corporation based on OEB approved rates.

The Corporation filed for recovery of these costs as of December 31, 2004. The application was approved by the OEB effective May 1, 2006. As prescribed by the OEB, the balances being recovered have been moved to regulatory asset recovery amount.

Smart meters - the Province of Ontario has committed to have "Smart Meter" electricity meters installed in 800,000 homes and small businesses by the end of 2007 and throughout Ontario by the end of 2010. Smart meters permit consumption to be recorded within specific time intervals and specific tariffs to be levied within such intervals. Bill 21, Energy Conservation and Responsibility Act, provides the legislative framework and regulations to support this initiative.

Included in distribution rates, effective May 1, 2006, is a charge for smart meters of $0.27 per metered customer per month. Consistent with the OEB's direction and pending further guidance, all smart meters related expenditures and recoveries are currently being deferred in regulatory accounts.

Regulatory assets recovery amount - represents costs incurred by the Corporation which have been approved for recovery through rates in excess of amounts recovered from customers.

Restructuring of the electricity industry in Ontario - The continuing restructuring of Ontario's electricity industry and other regulatory developments, including current and possible future consultations between the OEB and interested stakeholders, may affect the distribution rates that the Corporation may charge and the costs that the Corporation may recover, including the balance of its regulatory assets.

In the absence of rate regulation, generally accepted accounting principles would require the Corporation to record the costs and recoveries described above in the operating results of the year in which they are incurred and reported earnings before income taxes would be $763,124 (2005 - $1,185,951) higher than reported.

6. Long-term debt:

	2006	2005
Debentures outstanding to Town of Lincoln	$ 23,618	$ 45,847
Term loan	9,500,000	9,500,000
	9,523,618	9,545,847
Less principal included in current liabilities	9,523,618	22,229
	$ -	$ 9,523,618

Debentures outstanding to the Town of Lincoln are made up of installment debentures which bear interest at rates ranging from 4.5% to 11.5% and mature in May 2007.

The term loan is a variable rate committed term loan issued as bankers acceptances bearing interest at the BA rate and is due in July 2007. It is management's intention to renew this term loan when it comes due.

The term loan is secured by a general security agreement over all of the assets of the Corporation and an assignment of fire insurance.

The Corporation has entered into a swap transaction with the Corporation's banker the effect of which is to fix the interest rate on $8,000,000 of the term loan at 4.63% until July 20, 2009.

7. Capital lease:

	2006	2005
2006	$ -	$ 21,641
2007	21,641	21,641
2008	21,641	21,641
2009	46,560	46,560
	89,842	111,483
Less amount representing interest at 5.75%	6,994	12,272
	82,848	99,211
Current portion of obligations under capital lease	21,641	21,641
	$ 61,207	$ 77,570

8. Change in non-cash operating working capital:

	2006	2005
Cash provided by (used in):		
Accounts receivable	$ (1,455,002)	$ 390,953
Unbilled revenue	(57,880)	(256,029)
Inventory	147,907	(169,987)
Prepaid expenses	(55,524)	38,719
Accounts payable and accrued liabilities	342,191	1,367,801
	(1,078,308)	1,371,457

Supplementary cash flow information:

	2006	2005
Cash paid during the year for interest	538,216	565,081
Cash paid during the year for payment in lieu of taxes	1,391,336	879,542
Cash received during the year from interest	82,894	67,524

9. Pension agreements:

The Corporation contributes to the Ontario Municipal Employees Retirement Fund ("OMERS") which is a multi-employer plan on behalf of thirty members of its staff. The plan is a defined benefit plan which specifies the amount of retirement benefit to be received by an employee based on the length of service and rate of pay.

Contributions by the Corporation were at a rate of 6.0% for employee earnings below the year's maximum pensionable earnings and 8.8% thereafter.

The amount contributed for 2006 is $108,271 (2005 - $106,091) and is included as an expenditure in the Statement of Earnings.

10. Contingent liabilities:

(a) The Town of Lincoln and the former Lincoln Hydro-Electric Commission conducted tests and have determined that there is excessive leachate in the soil at the Quarry Road property which was sold to Lincoln Hydro-Electric Commission by the Town in 1991 and subsequently transferred to Peninsula West Utilities Limited in 2000. The Town of Lincoln has agreed to pay for the clean-up and site restoration costs, currently estimated at $350,000.

(b) A class action lawsuit claiming $500 million in restitutionary payments plus interest was served on Toronto Hydro on November 18, 1998. The action was initiated against Toronto Hydro Electric Commission as the representative of the Defendant Class consisting of all municipal electric utilities in Ontario. The action has not yet been certified as a class action and no discoveries have been held, as the parties were awaiting the outcome of a similar proceedings brought against Enbridge Gas Distribution Inc. (formerly Consumers Gas).

On April 22, 2004, the Supreme Court of Canada released a decision in the Consumers Gas case rejecting all of the defences which has been raised by Enbridge, although the Court did not permit the Plaintiff class to recover damages for any period prior to the issuance of the Statement of Claim in 1994 challenging the validity of late payment penalties. The Supreme Court remitted the matter back to the Ontario Superior Court of Justice for determination of the damages. At the end of 2006, a mediation process resulted in the settlement of the damages payable by Enbridge.

After the release by the Supreme Court of Canada of its 2004 decision in the Consumers Gas case, the plaintiffs in the LDC late payment penalties class action indicated their intention to proceed with their litigation against the LDCs. To date, no formal steps have been taken to move the action forward. The electric utilities intend to respond to the action if and when it proceeds on the basis that the LDC's situation may be distinguishable from that of Consumers Gas.

At this time it is not possible to quantify the effect, if any, on the financial statements of Peninsula West Utilities Limited.

10. Contingent liabilities (continued):

(c) The Corporation has issued an $2,120,000 irrevocable letter of credit in favour of the Independent Electricity Market Operator ("IMO") as security for the Corporation's purchase of electricity through the IMO. At year-end, no amounts were drawn on this letter of credit.

(d) The Corporation has guaranteed up to $3,250,000 in favour of TD Canada Trust of the debt of Niagara West Transformation Corporation ("NWTC"), which is 50% owned by the parent. The debt matures March 9, 2012. At December 31, 2006, the outstanding debt balance is $5,732,000.

11. General liability insurance:

The Corporation is a member of the Municipal Electric Association Reciprocal Insurance Exchange ("MEARIE") which is a pooling of general liability insurance risks. Members of MEARIE would be assessed on a pro-rata basis should losses be experienced by MEARIE, for the years in which the Compilation was a member.

To December 31, 2006, the Corporation has not been made aware of any additional assessments.

Participation in MEARIE expires January 1, 2008. Notice to withdraw from MEARIE must be given six months prior to the commencement of the next underwriting term.

12. Transactions with related parties:

Related parties are the Corporation's parent, Peninsula West Power Inc., a subsidiary of the parent, Peninsula West Services Ltd. and an incorporated joint venture, 50% owned by the Corporation's parent, Niagara West Transformation Corporation ("NWTC").

The Corporation paid a management fee of $45,747 (2005 - $45,699) to its parent. The Corporation paid transformer charges to NWTC in the amount of $186,607 (2005 - $146,920). The Corporation received management fees of $26,753 (2005 - $24,334). These transactions are in the normal course of operations and are measured at the exchange amount.

Included in accounts receivable are $40,924 (2005 - $7,346) owing from related parties. Included in accounts payable are $48,679 (2005 - $48,159) owing to related parties. These balances are non-interest bearing with no fixed terms of repayment.

13. Financial instruments:

The carrying values of cash, accounts receivable, unbilled revenue, accounts payable and accrued liabilities approximate fair values because of the short maturity of these instruments.

Financial assets held by the Corporation, such as accounts receivable and unbilled revenue, expose it to credit risk. The Corporation earns its revenue from a broad base of customers located in the Towns of Lincoln and Pelham and Township of West Lincoln. No single customer would account for revenue in excess of 3% of the respective reported balances.

The carrying value of the term loan approximates fair value as the loan bears interest at current rates.

The fair market value of the interest rate swap is $(102,011) (2005 - $(138,841)).

The fair market value of the investment is not available as it is not publicly traded.

14. Unusual items:

As a result of the 2005 application to recover regulatory assets in rates, the pre-market opening energy variance and qualifying costs recoverable have been adjusted to reflect the amount recoverable through approved rates. The impact on current year results is an increase in income in the amount of $338,244.

NIAGARA PENNISULA ENERGY INC.

PROFORMA STATEMENT OF OPERATIONS

for the years ended December 31, 2008

	2008 $
Service Revenue	
Standard supply charge	81,357,347
Wholesale, network and connection charges	14,588,825
Service charge	18,764,069
Distribution volumetric charge	8,542,483
Standard supply service admin charge	84,000
Retailer revenue	65,000
Other income	18,000
	123,419,724
Cost of Power	
Power Purchased	95,946,172
Gross Profit	27,473,552
Other Revenue	1,883,000
	29,356,552
Expenses	
Operation and maintenance	
Distribution	6,791,537
Utilization	139,800
Administration and general	8,567,923
Billing and collecting	2,752,573
Depreciation	6,948,475
Extraordinary deductions	0
	25,200,308
Net Income before payment in lieu of income taxes	4,156,244
Payments in Lieu of Income Taxes	1,662,498
Net Income for the Year	2,493,746

NIAGARA PENNISULA ENERGY INC.

PROFORMA BALANCE SHEET

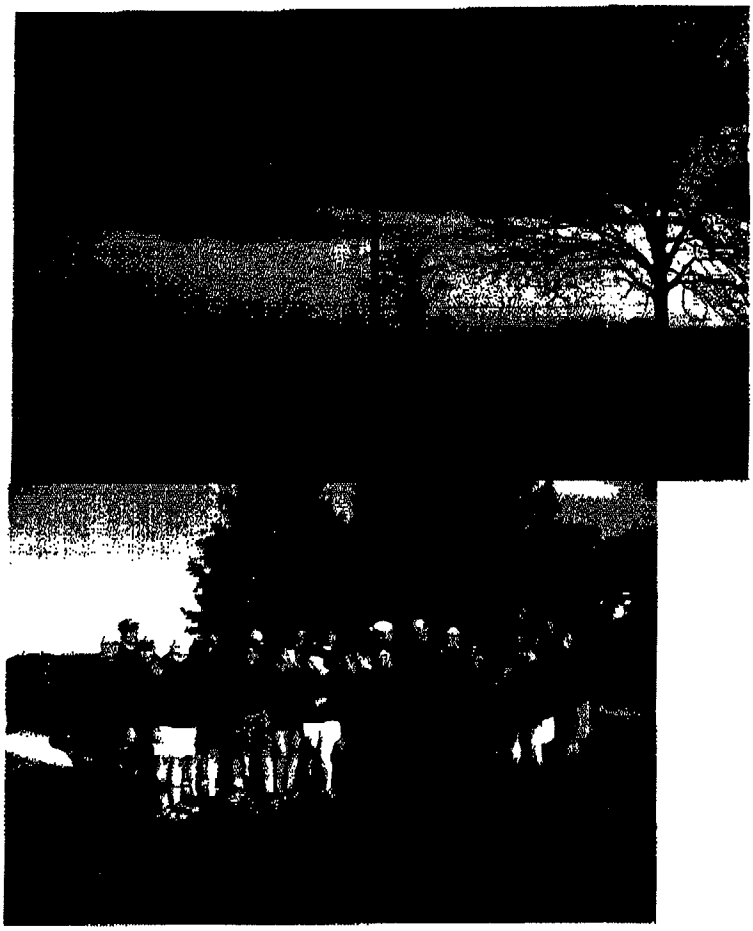
December 31, 2008

Assets	2008 $
Fixed Assets	85,187,063
Current Assets	41,953,193
Regulatory Assets	1,409,256
	128,549,512

Liabilities and Shareholder's Equity

Long-Term Debt	40,812,132
Current Liabilities	24,617,160
Other Liabilities	5,907,506
Shareholder's Equity	
Share capital	30,045,882
Paid-up capital	6,705,305
Retained Earnings	20,461,526
	57,212,713
	128,549,512

Peninsula West Power Inc. (Pen West)



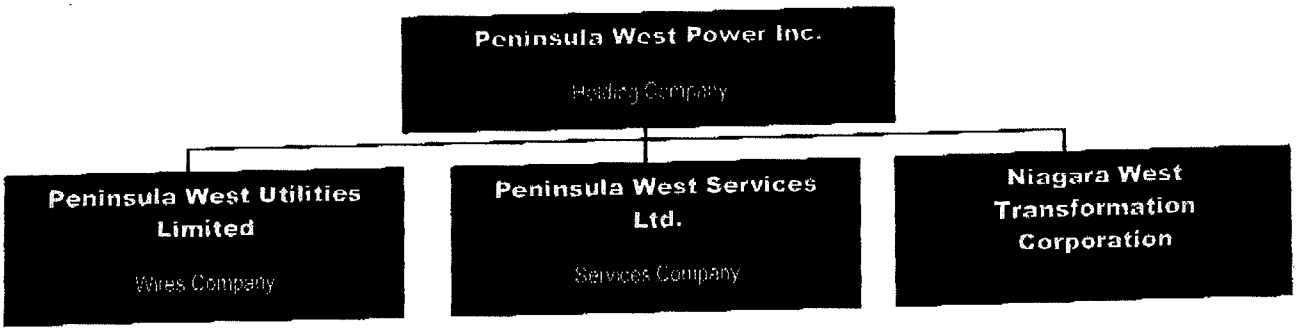
Annual Report 2005

Pen West 2005 Annual Report

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PEN WEST CORPORATE STRUCTURE



The Town of Lincoln, Town of Pelham and Township of West Lincoln are the sole shareholders of Peninsula West Power Inc. (PWPI), the Holding Company, as prescribed by the *Energy Competition Act 1998*. In accordance with the Unanimous Shareholders Agreement, executed by the respective Municipalities on October 2, 2000 each shareholder appoints two (2) Directors to serve on the Holding Company Board. The Municipalities also recommend Directors to serve on the Wires Company. The Holding Company is the sole shareholder of Peninsula West Utilities Limited and Peninsula West Services Ltd.

The Holding Company also holds 50% of the Shares in Niagara West Transformation Corporation (NWTC), the Municipal Transformer Station. Niagara Power Incorporated (Grimsby's Holding Company) holds the other 50% shares in NWTC.

NWTC was incorporated on September 4, 2003 and it has three Directors appointed from each of its Holding Companies. The LDCs from each Holdco support the debt of the Transformer Company.

Mission Statement

"Peninsula West Utilities will provide consumers in Lincoln, Pelham and West Lincoln with a safe and reliable electricity supply. It will work to ensure that electricity rates reflect the best interests of consumers. Peninsula West Utilities Limited should meet or exceed customers expectations for service quality and responsiveness at a reasonable cost, while meeting top quartile standards for cost effectiveness and efficiency."

2005 BOARD OF DIRECTORS

Peninsula West Power Inc.

Position	Name	Municipality	Current Term
Director	John Hildebrand	Lincoln	2002-2005 (Holding)
Director	Brian Walker	Pelham	2005-2008
Director	Mayor Bill Hodgson	Lincoln	2003-2006
Chair	Mayor Katie Trombetta	West Lincoln	2003-2006
Director	Mayor Ronald Leavens	Pelham	2004-2007
Director	Russell Lowden	West Lincoln	2004-2007

Peninsula West Utilities Limited

Position	Name	Municipality	Current Term
Director	John Hildebrand	Lincoln	2002-2005 (Holding)
Chair	Brian Walker	Pelham	2005-2008
Director	Bruce McFarlane	West Lincoln	2003-2006
Director	Adrian White	Pelham	2003-2006
Director	Maryanne McDougall	West Lincoln	2004-2007
Director	Peter Wicks	Lincoln	2004-2007

Peninsula West Services Ltd.

Position	Name	Current Term
Chair	John A. Alton	2003-2006

Pen West Management Team

Position	Name
President	John A. Alton
Director of Administration & Finance	Karen Bubish
Director of Operations	Chuck deJong
Lines Supervisor	Rudi Pahl
Accounting Supervisor	Pamela Crump
Customer Account Supervisor	Bonnie McMillan
Administrative Assistant	Judith Hildebrand

Niagara West Transformation Corporation

Position	Name	Local Distribution Company
Director	John A. Alton	Pen West
Director	James Detenbeck	Grimsby Power
Director	Roger Hayes	Pen West
Chair	Brian Weber	Grimsby Power
Director	Peter Wicks	Pen West
Director	David Wilson	Grimsby Power

NWTC Management Team

Position	Name
Vice President Operations/Secretary	James Detenbeck
Vice President Administration/Treasurer	John A. Alton

CORPORATE OVERVIEW

Peninsula West Power Inc. (PWPI)

The Holding Company appoints Directors to each of its subsidiary companies and approves all policies. There are no full time employees in the Holding Company therefore it contracts management services from the Wires Company for a fee.

Peninsula West Utilities Limited (PWUL)

The Wires Company holds all the employees and assets, including the Distribution License of the Distribution Company. The Ontario Energy Board regulates the Wires Company which is required to comply with all codes.

Peninsula West Utilities Limited has a services agreement with all of its affiliates and charges fees at fair market value for all the services it provides.

Peninsula West Services Ltd. (PWSL)

The Services Company holds all the water heaters, sentinel lights and energy management assets. There are no full time employees in the services company therefore it contracts management services from the Wires Company for a fee.

Niagara West Transformation Corporation (NWTC)

The Transformer Company holds all the transformer assets and has a three-year Transmission License and is regulated by the Ontario Energy Board.

The Transformer Company has no full time employees and it contracts out Operations, Maintenance and Administration services from third parties for a fee.

MESSAGE FROM THE CHAIRMAN OF THE HOLDING COMPANY BOARD

The increasing complexity of the electricity market and the never ending regulatory burden combined to reinforce our commitment to seek the optimum way to maintain local control and presence, improve reliability, enhance customer service and increase emergency response capability. We also wish to eliminate duplication of costly back office activities and achieve economies of scale.

The steering committee comprised of directors and senior staff from Peninsula West Utilities Limited and Niagara Falls Hydro pursued the options of a Services Company, until advised by legal counsel of concerns with regulatory requirements and inherent risks associated with Servco.

The steering committee reported to the respective Boards and the municipal shareholders. The committee was authorized to identify other options to achieve the stated goals.

After several months of investigation, the steering committee recommended that the best option was to pursue a merger of the two distribution companies.

The Boards authorized the steering committee to engage in the preparation of a term sheet which would lead to a merger agreement and a shareholders agreement.

It was understood by all parties that no merger would take place without an exemption from the provincial 33 ⅓% transfer tax.

The proposal to prepare a term sheet would be brought to the respective shareholders early in 2006.

Peninsula West Utilities Limited continued its program to improve system reliability and to enhance customer service. The magnitude of the storm in April caused the company to revamp its capital expenditures and maintenance programs. The company also made changes to tits emergency procedures manual.

The Niagara West Transformation Corporation municipal transformer station, which is jointly owned with Grimsby Power, functioned well in 2005. We are working on our system to transfer additional load to the station.

Mayor Katie Trombetta
PWPI Chair

MESSAGE FROM THE CHAIRMAN OF THE UTILITY COMPANY BOARD

In 2005, Peninsula West Utilities Limited continued to pursue the shareholder's objectives of improved reliability and enhanced customer service.

The year 2005 will be remembered as the year of the April storm, which caused extensive damage to the system and an extended power outage, especially in the Township of West Lincoln. The cost of the storm was more than $325,000 and resulted in a shift of priorities within the capital and maintenance budgets. The existing pole inspection program was accelerated and the pole replacement project became a focal point, not only for 2005, but also subsequent years. The emergency procedures manual was re-worked.

On a positive note, we received tremendous support from other EDA utilities, from as far as Waterloo North. The industry works as one in times of emergency.

The recommendation to construct a new service centre in the West Lincoln industrial park was received by the Board in the spring. In July, the President was given authorization to purchase the West Lincoln land. The deal was concluded, after an environmental assessment, in December. The purchase price was $223,000.

Local 636 of the IBEW was certified as the union representing the office employees and a collective agreement was signed in June.

The new Ministry of Energy, Donna Cansfield placed great emphasis on Conservation and Demand Management. We received a 2005 rate adjustment which was contingent on a three year commitment to Conservation & Demand Management programs. In the fall Pen West participated in the coupons program for the purchase of energy efficient bulbs, thermostats, fans, timers and Christmas lights with 7% customer participation.

Pen West put in a formal request to Hydro One for the acquisition of Hydro One assets in the Town of Pelham. We received excellent support from the Town in this request.

The Hixon Street and the Grimsby Mountain transformer stations were decommissioned. Both sites are redundant and will be sold.

The Caistor Centre conversion project was begun at the end of the year to improve efficiency and to reduce line losses. The project cost was estimated at more than $700,000.

In December, the debt to the Toronto Dominion Bank was reduced by $2,000,000.

Smart metering was a major topic in the industry throughout the year. We decided not to take a leadership role, but to learn from others and hopefully mitigate our expenses.

Pen West, through its President and staff, was a strong presence in the Electrical Distributors Association, the Niagara Erie Power Alliance, ENERconnect and the Utility Standards Forum.

During the year, Pen West connected more than 250 new residences, 26 general service customers and there were more than 70 service upgrades

Brian Walker
PWUL Chair

SAFETY MESSAGE FROM THE PRESIDENT

The Joint Health and Safety committee worked diligently throughout the year to promote and reinforce a safety culture for Pen West employees and their families, Board members and their families, and for all of our customers.

Major accomplishments included working 56,452.25 hours with no compensable injuries with the cumulative total being 431,150.50 hours. We received the Certificate of Merit Award from the Electrical & Utilities Safety Association (E&USA) for 5-years with no compensable injuries.

Safety consultant Sammy Go was hired to assist the Joint Health & Safety Committee in the revision of the Pen West Safety Policy and Program and to help with our participation in the E&USA Zero Quest Program. He also assisted in the preliminary preparation for the Electrical Safety Authority audit to be held in 2006.

Other day to day procedures were either revised or implemented to create a safer work environment. Fire retardant clothing continues to be supplied to our outside lines and operations employees with a cleaning service put into place to help preserve the clothing.

Brian Walker
President

Peninsula West Power Inc. (Pen West)

Annual Report 2006

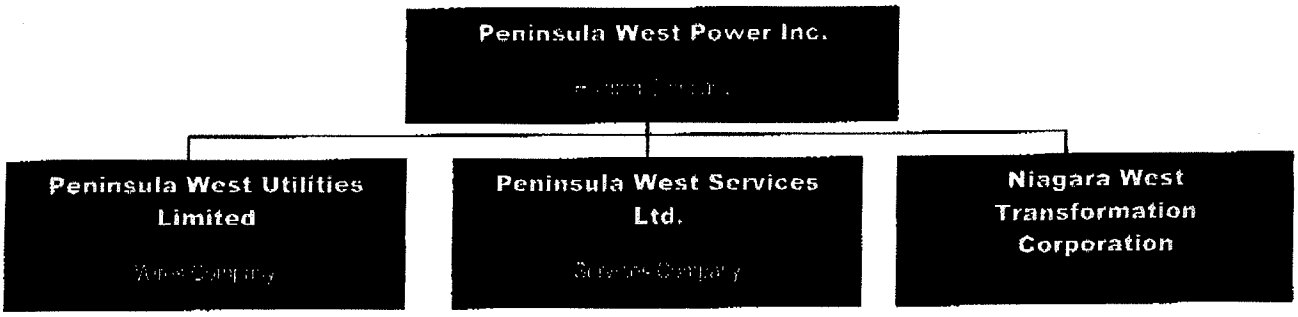


Pen West 2006 Annual Report

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PEN WEST CORPORATE STRUCTURE



The Town of Lincoln, Town of Pelham and Township of West Lincoln are the sole shareholders of Peninsula West Power Inc. (PWPI), the Holding Company, as prescribed by the *Energy Competition Act 1998*. In accordance with the Unanimous Shareholders Agreement, executed by the respective Municipalities on October 2, 2000 each shareholder appoints two (2) Directors to serve on the Holding Company Board. The Municipalities also recommend Directors to serve on the Wires Company. The Holding Company is the sole shareholder of Peninsula West Utilities Limited and Peninsula West Services Ltd.

The Holding Company also holds 50% of the Shares in Niagara West Transformation Corporation (NWTC), the Municipal Transformer Station. Niagara Power Incorporated (Grimsby's Holding Company) holds the other 50% shares in NWTC.

NWTC was incorporated on September 4, 2003 and it has three Directors appointed from each of its Holding Companies. The LDCs from each Holdco support the debt of the Transformer Company.

Mission Statement

"Peninsula West Utilities will provide consumers in Lincoln, Pelham and West Lincoln with a safe and reliable electricity supply. It will work to ensure that electricity rates reflect the best interests of consumers. Peninsula West Utilities Limited should meet or exceed customers expectations for service quality and responsiveness at a reasonable cost, while meeting top quartile standards for cost effectiveness and efficiency."

2006 BOARD OF DIRECTORS

Peninsula West Power Inc.

Position	Name	Municipality	Current Term
Director	John Hildebrand	Lincoln	2002-2005 (Holding)
Director	Brian Walker	Pelham	2005-2008
Director	Mayor Bill Hodgson	Lincoln	2003-2006
Chair	Mayor Katie Trombetta	West Lincoln	2003-2006
Director	Mayor Ronald Leavens	Pelham	2004-2007
Director	Russell Lowden	West Lincoln	2004-2007

Peninsula West Utilities Limited

Position	Name	Municipality	Current Term
Director	John Hildebrand	Lincoln	2002-2005 (Holding)
Chair	Brian Walker	Pelham	2005-2008
Director	Bruce McFarlane	West Lincoln	2003-2006
Director	Adrian White	Pelham	2003-2006
Director	Maryanne McDougall	West Lincoln	2004-2007
Director	Peter Wicks	Lincoln	2004-2007

Peninsula West Services Ltd.

Position	Name	Current Term
Chair	Brian Walker	2003-2006

Pen West Management Team

Position	Name
President	Brian Walker
Chief Operating Officer	Karen Bubiah
Director of Engineering & Operations	Brad Randall
Lines Supervisor	Rudi Pahl
Accounting Supervisor	Pamela Crump
Customer Account Supervisor	Bonnie McMillan
Administrative Assistant	Judith McTaggart

Niagara West Transformation Corporation

Position	Name	Local Distribution Company
Director	Brad Randall	Pen West
Director	James Datenbeck	Grimsby Power
Director	Roger Hayes	Pen West
Chair	Brian Weber	Grimsby Power
Director	Peter Wicks	Pen West
Director	David Wilson	Grimsby Power

NWTC Management Team

Position	Name
Vice President Operations/Secretary	James Datenbeck
Vice President Administration/Treasurer	Brad Randall

CORPORATE OVERVIEW

Peninsula West Power Inc. (PWPI)

The Holding Company appoints Directors to each of its subsidiary companies and approves all policies. There are no full time employees in the Holding Company therefore it contracts management services from the Wires Company for a fee.

Peninsula West Utilities Limited (PWUL)

The Wires Company holds all the employees and assets, including the Distribution License of the Distribution Company. The Ontario Energy Board regulates the Wires Company which is required to comply with all codes.

Peninsula West Utilities Limited has a services agreement with all of its affiliates and charges fees at fair market value for all the services it provides.

Peninsula West Services Ltd. (PWSL)

The Services Company holds all the water heaters, sentinel lights and energy management assets. There are no full time employees in the services company therefore it contracts management services from the Wires Company for a fee.

Niagara West Transformation Corporation (NWTC)

The Transformer Company holds all the transformer assets and has a three-year Transmission License and is regulated by the Ontario Energy Board.

The Transformer Company has no full time employees and it contracts out Operations, Maintenance and Administration services from third parties for a fee.

MESSAGE FROM THE CHAIRMAN OF THE HOLDING COMPANY BOARD

Change seems to be the theme of each annual report in the electricity distribution sector and 2006 was no exception. Changes in personnel in the wires company were wrenching but did not diminish the company's vision of seeking the optimum way to maintain local control and presence, to improve reliability, enhance customer service and increase emergency response capability.

The merger steering committee produced a merger term sheet setting out the basis for a future merger agreement, shareholders agreement and municipal co-operative agreement. This term sheet was accepted by our shareholders, as well as the shareholder of Niagara Falls Hydro, in May.

With the encouragement of the holding company, the wires company embarked on an aggressive capital and maintenance program to increase reliability and efficiency.

The subsidiary company, Peninsula West Services Limited, continues to provide important services to our customers through the water heater rental program and the rental of sentinel lights.

Niagara West Transformation Corporation, a joint venture with Grimsby Power Inc., had a successful year with a high level of reliability. Increased load allowed the company's financial position to move closer to a positive net income position, slightly ahead of projections.

Katie Trombetta
Chair

MESSAGE FROM THE CHAIRMAN OF THE UTILITY COMPANY BOARD

On November 1, 2006 we celebrated the completion of six years of distributing electricity to customers in Lincoln, Pelham and West Lincoln, under the corporate name of Peninsula West Utilities Limited. Although we had previously faced and overcome many challenges in an always changing regulatory environment, 2006 provided a totally unforeseen change.

The sudden death of our president, John Alton, on June 4th had a tremendous impact, not only on our company, its employees and its shareholders but also on the electricity distribution industry in Ontario. John had been the driving force in our amalgamation of West Lincoln, Lincoln and Pelham in 2006 and was leading the way in the proposed merger with Niagara Falls Hydro. He was well known throughout the industry as a leading advocate for maintaining local presence and control over the management of electricity services.

His death led to a restructuring of our senior management team with the Board appointing Karen Bubish as Chief Operating Officer, Brad Randall as Director of Engineering and Operations, and Brian Walker as interim President.

Within the company the main focus in Operations continued to be increasing the reliability and efficiency of the distribution system. We were able to raise the level of capital spending and invested heavily in the voltage conversion program which will lead to increased efficiency and lower line losses.

An extensive pole assessment and replacement program was accelerated, again to improve reliability. Our company has established a continuous tree trimming program which has resulted in reduced outages.

Our line losses have dropped as a result of our capital and maintenance programs.

Pen West has also participated in Conservation and Demand Management programs in conjunction with the provincial government, the Conservation Bureau and the Ontario Power Authority. Examples were the old fridge removal program and the Christmas L.E.D., light exchange program. We have also assisted local large users in identifying ways to manage their electricity consumption.

W. Brian Walker
Chair

MESSAGE FROM THE PRESIDENT

I would like to express my sincere gratitude to our employees and our directors for their continuing support since I took on the presidency in June. We are doing business in a different way now, with technical and operational issues being handled by the Chief Operating Officer and the Director of Engineering and Operations.

I appreciate having the opportunity to work with our management team of Karen Bubish, Brad Randall, Pam Crump, Bonnie McMillan and Judith McTaggart. Our success as a company is a result of the dedication of **all** our employees; working in an environment of a proposed merger is sometimes stressful, but our employees strive to make this a great company.

Much time has been spent on the proposed merger with Niagara Falls Hydro. Our shareholders approved the merger term sheet in May and once the province granted a two year transfer tax exemption in October, the merger process accelerated to develop merger shareholder and municipal co-operation agreements.

I am especially proud of the fact that our employees completed another year without a single lost time accident. We are closing in on the next milestone which is 500,000 hours, a tremendous accomplishment for a small utility.

Western Niagara has experienced the fastest population growth in the Niagara Region; this fact is reflected in our connecting 271 new customers to our distribution system in 2006.

W. Brian Walker
President

SAFETY MESSAGE

Promoting and reinforcing a health and safety culture for Pen West during 2006 was an ongoing concern. This was done on all levels of the corporation from the employees, to the Joint Health and Safety Committee, management and board of directors through worksite/place inspections, meetings, training and information bulletins.

One of the major accomplishments for 2006 was achieving the Electrical and Utilities Safety Association Bronze Award which is the first step on our quest to zero injuries. This award required the dedication from the Joint Health & Safety Committee as well as management and staff and demonstrates Pen West's commitment to health and safety in the work environment, at home and for the public. We celebrated this milestone with staff at a safety meeting and luncheon held on the 28th of April.

The Pen West employees also worked 55,271.25 hours collectively with no compensable injuries in 2006 with the cumulative total being 486,421.75 hours.

New policies and procedures were put in place for tree trimming and vine removal as well as a program developed for ergonomics in the workplace.

Near miss incident reporting was also reviewed with staff to ensure that all near misses are reported. This practice helps promote and reinforce the safety culture as procedures, programs and training can be implemented to prevent future accidents from happening.

The dedication from the Pen West employees and management for health and safety is an important part of our day to day work environment and we are proud of the accomplishments that are seen each year and the commitment that is demonstrated from all.

Judith McTaggart
Joint Health and Safety Committee

Report on Update of Valuation of
Niagara Falls Hydro Inc. and Peninsula West Utilities Ltd.

Prepared by
Henley International Inc.

May 9, 2007

May 9, 2007

Report on Update of Valuation of
Niagara Falls Hydro Inc. and Peninsula West Utilities Ltd.

Background

Henley International Inc. (Henley) was retained by Niagara Falls Hydro and Pen West Power Inc. to update valuations of Niagara Falls Hydro Inc. (NFH) and Pen West Utilities Ltd. (PWU) to take into consideration changes in the regulatory environment, changes in underlying assumptions and the results of 2006 operations. It was understood that these valuations would be used as input to the intended goal of amalgamating the two utilities.

The procedure Henley used to complete this task was unchanged from that used in preparing the 2006 valuation, which was accepted by each of the companies. Essentially this procedure involved the preparation of financial projections for each of the utilities in order to determine expected cash flows from each company on a stand alone, business-as-usual basis. The discounted value of these cash flows, using the companies' cost of capital as the discount rate, established the values of the companies.

Since the preparation of financial projections for each company involves the use of numerous assumptions, those which Henley intended to use were described and provided to the companies for their review. Critical among these assumptions is the expected regulatory environment. While the assumptions are discussed in some detail in the Appendix it is useful to state at the outset three important developments in the regulatory framework:

i) Cost of capital – the OEB undertook a detailed consultation on the subject of the cost of capital (See Report of the Board on Cost of Capital and 2nd Generation Incentive Regulation for Ontario's Electricity Distributors). Among the important outcomes of this process were that the Board decided to retain its formula-based determination of the return on equity and secondly that it changed its approach to capital structure, concluding that utilities of all sizes should maintain a 60/40 debt equity ratio. The latter will mean that both companies will have to alter their capital structure over the transition period set out by the OEB and, significantly for valuation purposes, the cost of capital for each company has been reduced.

ii) 2nd Generation Incentive Regulation Mechanism (IRM) – for the years prior to rebasing when a full cost of service study will be required rates will be set using the 2nd Generation IRM, which is essentially an inflation minus productivity gain adjustment.

iii) Rebasing – utilities will be categorized into three groups for the purpose of rebasing using a cost of service study. The rate applications of these groups will be heard in 2008, 2009 and 2010. It is assumed for valuation purposes that both companies will be in the group with rebasing in 2010.

Valuation Results

Since 2006 LDCs have levied a rate rider in anticipation of expenditures required to introduce smart metering. While the implementation of smart metering is the stated intention of the government, it is not at this point certain. Consequently, two cases were undertaken to deal with smart metering. In the Base Case it is assumed that the decision to go ahead with smart metering is reversed. In 2010 the funds collected to date with associated interest are returned to consumers in the form of rate relief. In the Smart Meter case the program is implemented in 2010. Expenditures on the program up to and including 2010 are capitalized and added to the rate base in that year. Capital expenditures and OM&A are adjusted in subsequent years to account for smart meter program requirements. The data for each case were provided by the companies.

The table below provides the valuation results and compares them to the 2006 results. The rate base, which is the foundation for the return on capital, is deemed by the OEB to include two components, one related to fixed assets and one related to working capital. The former is based on the net book value of fixed assets, which changes slowly. The latter is based on a deemed level set by the OEB. In the setting of rates and the return on equity it is presumed that LDCs will meet this required level of working capital. A purchaser of either company would require that the company met the deemed working capital requirement. However, actual working capital can vary significantly. Consequently, a valuation adjustment is made to account for deviations between the actual and deemed working capital levels. Since there have been significant swings in these adjustments they are shown in the table.

Summary of Valuation Results

	$ Millions		% Share of Total	
	NFH	**PWU**	**NFH**	**PWU**
2006 Total assets	90.2	33.6	72.9	27.1
Rate Base (2006 EDR)	65.3	24.1	73.0	27.0
06 Base Case				
PV Cash Flow	80.1	30.3	72.6	27.4
WC Adj.	-0.9	-1.8		
Net Value	79.2	28.5	73.5	26.5
07 Base Case				
PV Cash Flow	87.7	32.3	73.1	26.9
WC Adj.	3.0	-1.2		
Net Value	90.7	31.1	74.5	25.5
07 Smart Meter Case				
PV Cash Flow	88.8	32.2	73.4	26.6
WC Adj.	3.0	-1.2		
Net Value	91.8	31.0	74.8	25.2

Looking first at the Present Value of Cash Flow valuation the increase in the NFH value from the 06 valuation to the present one is almost entirely due to the reduction in the cost of capital and the resultant lowering of the discount rate. Using the discount rate from last year the PV Cash Flow value would be $81.6 million, just $1.5 million higher than last year. Similarly, the PV Cash Flow for PWU would be slightly lower than last year. The discount is the weighted average after-tax cost of capital. For NFH the discount rate is reduced from 6.76% to 6.31% (or 7%) by the increase in the debt ratio from 50% to 60%. For PWU the discount rate is reduced from 6.84% to 6.42% (or by 6%) by the change in capital structure. However, the after tax interest rate for PWU is also lower, from 4.68% to 3.83% which further lowers the discount rate to 5.9%.

There is a significant change in the working capital adjustment between the two years. NFH's actual working capital increased by $3.4 million in 2006, about $2 million of this in cash. PWU's financial statements for 2006 show a reduction in working capital of $0.3 million in 2006. However, an adjustment is made for a payment received from the OEFC in early 2007 in the amount of $1.6 million.

Looking at the shares of total value in the base cases, on a PV Cash Flow basis NFH's share increases by about 0.5%. However, after allowance for the working capital adjustments the increase in NFH's share is 1.0%.

The implementation of the smart meter program has little impact on the valuations of the two companies. NFH's value increases slightly and PWU remains essentially the same.

Conclusions

The updated valuations result in increased values for each of the companies on a PV Cash Flow basis. This is largely due to the reduction in the cost of capital resulting from the OEB's decision regarding increased use of debt financing. After adjustments for working capital the value of NFH is estimated at $90.7 million and PWU at $31.1 million. On a share basis NFH accounts for 74.5% of the total value and PWU 25.5%.

Appendix

Overview of Valuation Methodology

The valuation of the utilities is based on projected cash flow to the owners of the capital provided. The regulatory environment plays a critical role in the valuation, affecting most aspects of utility operation, particularly revenues. Revenues are forecast for each customer class based upon the energy sales forecasts of each utility and projected distribution rates.

From a valuation perspective the focus is on cash flows rather than the accounting treatment of transactions. Regulatory assets are treated as revenues. These affect revenues projected for 2007.

Operating costs and investment spending are affected by growth in each utility's customer base and energy sales as well as inflation and productivity improvements. The cost of the energy commodity is treated as a pass through from the IESO market to the final consumer. Its effect on the utility is limited to its impact on working capital and the rate base in each rebasing year.

Integrated pro forma income and cash flow statements and balance sheets are forecast for the period 2007 – 2033. The financing of investment activity assumes that the utilities adhere to OEB guidelines on capital structure. This requires first a transition to the 60/40 debt structure stipulated in the OEB Report on Cost of Capital and 2nd Generation IRM. Dividend policy is consistent with cash flow and investment needs. Cash not needed for investment or to meet the OEB's deemed working capital requirements is distributed.

Summary of Assumptions

Energy Sales Growth
Assumed growth in energy sales is the same for both companies:
2.5% in 2007-2015; 2.0% in 2016-2025 and 1.5% in 2026-2033.

Inflation and Productivity
Inflation is assumed to average 2.0% over the forecast period. Average productivity improvement is assumed to be 1%. Commodity prices increase at an average rate of 1.5 %/yr.

Operating Costs

In the 2006 valuation OM&A costs, depreciation and interest costs for the first five years were based on projections provided by the companies. These internal projections were not available for the current estimates. OM&A projections are based on sales growth inflation and productivity improvements. Depreciation is based on the relationship between depreciation and the net book value of fixed assets in recent years. Interest expenses are based on the assumed interest rate and the long term debt outstanding.

Extraordinary costs
In 2007 extraordinary costs consist of the remaining CDM obligations resulting from the 3rd phase of MARR allowed in 2005. In 2007 in the Base Case it consists of the rate relief for the smart meter revenues collected since 2006 plus interest.

Regulatory Assets
Regulatory asset rate riders provide additional revenues in 2007. The rate riders used and the associated revenues are based on the approved regulatory asset filing with the OEB.

Distribution rates
Distribution service rates for 2007 are based on the companies' rate applications. In 2008 and 2009 rates are based on the implementation of 2nd Generation IRM. The companies are assumed to be part of the group that rebases in 2010. Thereafter rates are rebased every 5 years.

Investment
Capital expenditures are increased at the rate of the growth in energy sales. As a result investment is somewhat greater than depreciation, resulting in a gradual increase in the net book value of fixed assets.

Borrowing
During the period 2007 to 2010 borrowing is primarily designed to adjust the capital structure to level required by the OEB. The adjustment is greater for PWU than NFH since it starts from a debt ratio below the deemed level of 50%. In future years the financing of capital spending is designed to meet the new deemed debt level.

Dividends
Cash flow not needed for investment or to meet OEB deemed working capital requirement is distributed.

Cost of capital
The cost of debt is based on approved levels by the OEB. The cost of equity is assumed to be 9%. The increase in the deemed debt ratio from 50% to 60% has the effect of lowering the cost of capital by 7 – 8%.

Initial Values and Forecast Period
The initial values are derived from the financial statements for 2006. The forecast period is 2007 – 2033. Valuation as at the end of 2006.

NiagaraFalls
CANADA

May 31, 2007

Mr. John Hopkins
Broderick & Partners
Barristers & Solicitors
P.O. Box 897
Niagara Falls ON L2E 6V6

Dear Mr. ~~Hopkins~~ John:

Re: Hydro Resolution and By-law

Please find attached certified copies of Resolution 2007-17 and By-law 2007-110, which were passed by Niagara Falls City Council at their most recent meeting.

The resolution is based on the sample that you provided. As you will note, the by-law authorizes the execution of the Municipal Cooperation Agreement, paving the way for the amalgamation between Niagara Falls Hydro Inc. and Peninsula West Utilities Limited. Both the by-law and resolution have been executed by the signing authorities for the municipal corporation

If you require anything further, feel free to contact me.

Sincerely,

Dean Iorfida
City Clerk

c. Brian Wilkie, President, Niagara Falls Hydro inc.
Ken Beaman, Acting City Solicitor (w/o attachments)

Working Together to Serve Our Community

Corporate Services Department
Clerks
Ext 4271 Fax 905-356-9083
diorfida@niagarafalls.ca

4310 Queen Street, P.O. Box 1023, Niagara Falls, ON, Canada, L2E 6X5 905-356-7521 www.niagarafalls.ca

The City of Niagara Falls, Ontario
Resolution

No. 17

Moved by Councillor Pietrangelo

Seconded by Councillor Diodati

WHEREAS it is in the best interest of the Shareholder that the subsidiary Corporation, Niagara Falls Hydro Holding Inc., merge with Peninsula West Power Inc. on the terms and conditions set out in the documents hereafter referred to.

THEREFORE BE IT RESOLVED THAT The President and Secretary of the subsidiary Corporation acting together are authorized to execute the following documents together with any related or ancillary documents necessary to carry out the merger of Niagara Falls Hydro Inc. with Peninsula West Power Inc. to form a Corporation to be called Niagara Peninsula Energy Inc.:

a. Merger Agreement

b. Shareholder's Agreement

AND THEREFORE BE IT RESOLVED THAT the foregoing resolution is hereby consented to by the Shareholder of the Corporation, as evidenced by its respective signatures hereto in accordance with the provisions of Section 104(1) of the *Business Corporations Act (Ontario)* this 28th day of May, 2007.

AND The Seal of the Corporation be hereto affixed.

Carried Unanimously

DEAN IORFIDA
CITY CLERK

R. T. (TED) SALCI
MAYOR

I, the undersigned, Clerk of the Corporation of the City of Niagara Falls, hereby certify the foregoing to be a true and correct copy of Resolution 2007-17 of the said City. Given under my hand and the seal of the said Corporation this 31st day MAY, 2007.

Clerk

CITY OF NIAGARA FALLS

By-law No. 2007 - 110

A by-law to authorize the execution of a Municipal Cooperation Agreement with The Town of Lincoln, The Town of Pelham and The Township of West Lincoln respecting the amalgamation of Niagara Falls Hydro Inc. and Peninsula West Utilities Limited.

THE COUNCIL OF THE CORPORATION OF THE CITY OF NIAGARA FALLS ENACTS AS FOLLOWS:

1. A Municipal Cooperation Agreement dated May 31, 2007 and made between The City of Niagara Falls as Niagara Falls, The Town of Lincoln as Lincoln, The Town of Pelham as Pelham and The Township of West Lincoln as West Lincoln, regarding the understandings and obligations of the municipalities in respect of the amalgamation of Niagara Falls Hydro Inc. and Peninsula West Utilities Limited, as attached hereto, is hereby approved and authorized.

2. The Mayor and Clerk are hereby authorized to execute the said Municipal Cooperation Agreement.

3. The Clerk is hereby authorized to affix the corporate seal thereto and to deliver the said Municipal Cooperation Agreement.

Passed this twenty-eighth day of May, 2007.

DEAN IORFIDA, CITY CLERK

R. T. (TED) SALCI, MAYOR

First Reading: May 28, 2007
Second Reading: May 28, 2007
Third Reading: May 28, 2007

I, the undersigned, Clerk of the Corporation of the City of Niagara Falls, hereby certify the foregoing to be a true and correct copy of By-law 2007 - 110 of the said City. Given under my hand and the seal of the said Corporation this 31st day MAY, 2007.

Clerk

MUNICIPAL CO-OPERATION AGREEMENT

THE CITY OF NIAGARA FALLS

- and -

THE TOWN OF LINCOLN

- and -

THE TOWN OF PELHAM

- and -

THE TOWNSHIP OF WEST LINCOLN

May 31, 2007

7.8 Assignment 12
7.9 Successors 12

(e) Niagara Falls, Lincoln, Pelham and West Lincoln have agreed to enter into this Municipal Co-operation Agreement to set out certain understandings and obligations of the municipalities in respect of the amalgamation of NFHI and PWUL.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the respective covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1
INTERPRETATION

1.1 Defined Terms

All capitalized terms used in the recitals hereto and in this Agreement (including the schedules hereto) and not defined therein shall have the following meanings:

"Agreement" means this Agreement and all Schedules hereto, as amended, supplemented, restated or replaced from time to time in accordance with this Agreement;

"Amalgamation" means the amalgamation and continuation of NFHI and PWUL as Niagara Peninsula Energy Inc. pursuant to the *Business Corporations Act* (Ontario) and in accordance with the Merger Agreement;

"Amalgamation Effective Date" has the meaning set forth in the Merger Agreement.

"Applicable Law" means, collectively, all applicable federal, provincial and municipal laws, statutes, ordinances, decrees, rules, regulations, by-laws, legally enforceable policies, codes, or guidelines; judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, orders, decisions, directives, rulings or awards; and conditions of any grant of approval, permission, certification, consent, registration, authority or licence by any statutory body, self-regulatory authority, stock exchange or other Governmental Authority;

"Business Day" means any day other than a day which is a Saturday, a Sunday or a statutory holiday in the Province of Ontario;

"Closing" has the meaning set forth in the Merger Agreement;

"Closing Date" has the meaning set forth in the Merger Agreement;

"Contract" means, in respect of a particular Person, any contract, note, bond, mortgage, agreement, indenture, lease, agreement to lease, licence, personal property lease, commitment, understanding, instrument, option or any other instrument, document or obligation, oral or written, to which such Person is a party or whereby such Person's assets may be bound;

"Person" means any individual, corporation, partnership, firm, joint venture, syndicate, association, trust, government, Governmental Authority and any other form of entity or organization;

"**Prospective Purchaser**" has the meaning set forth in Section 5.4;

"**Purchase Notice**" has the meaning set forth in Section 5.3;

"**Purchase Price**" has the meaning set forth in Section 5.2(a);

"**PWPI Shares**" means shares in the capital stock of PWPI;

"Right of First Refusal Period" has the meaning set forth in Section 5.3;

"**Sale Notice**" has the meaning set forth in Section 5.2(a);

"Shareholders Agreement" means the shareholders agreement to be entered into by NFHC, PWPI and Mergeco on Closing substantially in the form attached as Schedule + to the Merger Agreement.

"Term Sheet" means the Term Sheet dated June 8, 2006 among NFHC, NFHI, PWPI and PWUL relating to the proposed Amalgamation;

1.2 Interpretation Not Affected by Headings

The division of this Agreement into articles, sections, subsections, paragraphs, subparagraphs and clauses and the insertion of headings are for the convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms "this Agreement", "hereof", "herein", "hereunder" and similar expressions refer to this Agreement and the schedules hereto and not to any particular article, section, paragraph, subparagraph, clause or other hereof and include any agreement or instrument supplementary or ancillary hereto. Each Party acknowledges that it and its legal counsel have reviewed and participated in settling the terms of this Agreement.

1.3 Number and Gender

In this Agreement, unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.

1.4 Statutes and Amendments

Any reference in this Agreement to an agreement, or to a statute, regulation or rule promulgated under a statute or to any provision of an agreement, a statute, regulation or rule shall be a reference to the agreement, statute, regulation, rule or provision, as amended, restated, re-enacted or replaced from time to time.

ARTICLE 4
COVENANTS

4.1 Mutual Covenants

(1) Co-operation and Compliance. Subject to the terms and conditions of this Agreement and Applicable Law, each of the Parties shall use commercially reasonable efforts to take, or cause to be taken, all action, and to do, or cause to be done, all things necessary, proper or advisable to complete the Amalgamation.

(2) Confidentiality. Except as required by Applicable Law or a Governmental Authority, the Parties shall treat as confidential this Agreement, the Term Sheet, Merger Agreement and the Shareholders Agreement and all information provided to one another in accordance with this Agreement. Except as required by Applicable Law or a Governmental Authority, all such information shall be kept in the strictest confidence and not divulged to any unrelated third party.

(3) Public Statements. The Parties agree that any public announcement, press release or other public disclosure in respect of the Amalgamation, this Agreement, the Term Sheet, the Shareholders Agreement or the Merger Agreement shall be prepared on a joint basis following consultation between the Parties and shall be in form and substance acceptable to all Parties. Upon the completion of the Amalgamation, the Parties may issue press releases mutually acceptable to all Parties.

ARTICLE 5
HOLDING COMPANY SHARES

5.1 Municipal Hold Period

No right, title, benefit or interest in any shares of NFHC or PWPI may be sold, transferred, assigned, pledged, made subject to any encumbrance or otherwise disposed of by any Party for the five (5) year period from the Closing Date (the "**Municipal Hold Period**") except with the prior written approval of all of the other Parties.

5.2 Right of First Refusal – Sale Initiated by Lincoln, Pelham or West Lincoln

(a) Any of Lincoln, Pelham or West Lincoln (hereinafter in this Article 5 referred to as the "**Pen West Parties**") who desires to transfer or sell (hereinafter in this Article 5 referred to as the "**Pen West Selling Party**") all or any portion of its Holding Company Shares (hereinafter in this Article 5 referred to as the "**Pen West Offered Shares**") after the Municipal Hold Period shall give notice of such proposed sale (hereinafter in this Article 5 referred to as the "**Pen West Sale Notice**") to the other Pen West Parties (hereinafter in this Article 5 referred to as the "**Other Pen West Parties**") and shall set out in the Pen West Sale Notice the terms upon which and the price at which it desires to sell the Pen West Offered Shares (such price being hereinafter in this Article 5 referred to as the "Pen West **Purchase Price**").

Offered Shares are not sold to within such ninety (90) day periods, or, if the completion of such sale requires the prior approval of or notice to a third Person or Governmental Authority under Applicable Law or any instrument or agreement, within thirty (30) Business Days after receipt of such approval or any required period of notice, on such terms, the rights of the Other Pen West Parties and Niagara Falls pursuant to Article 5 shall again take effect and so on from time to time. All tax, of any kind, including any tax payable on the transfer of electricity assets, payable as a result of the purchase of any Holding Company Shares shall be paid by the purchaser of such shares.

5.5 **Right of First Refusal – Sale Initiated by Niagara Falls**

(a) Should Niagara Falls desire to transfer or sell all or any portion of its Holding Company Shares (hereinafter in this Article 5 referred to as the "**Niagara Offered Shares**") after the Municipal Hold Period, Niagara Falls shall give notice of such proposed sale (hereinafter in this Article 5 referred to as the "**Niagara Sale Notice**") to the other Parties (hereinafter in this Article 5 referred to as the "**Other Parties**") and shall set out in the Niagara Sale Notice the terms upon which and the price at which it desires to sell the Niagara Offered Shares (such price being hereinafter in this Article 5 referred to as the "**Niagara Purchase Price**").

(b) Upon the Niagara Sale Notice being given, the Other Parties shall have the right to purchase all, but not less than all, of their Proportionate Share of the Niagara Offered Shares for the Niagara Purchase Price.

5.6 **Exercise of Right of First Refusal - Sale Initiated by Niagara Falls:**

The Other Parties shall have the option, exercisable by giving written notice of the exercise of such option (hereinafter in this Article 5 referred to as the "**Niagara Purchase Notice**") to the Niagara Falls within ninety (90) days (hereinafter in this Article 5 referred to as the "**Niagara Right of First Refusal Period**") subsequent to the date of receipt by the Other Parties of the Niagara Sale Notice, to purchase all but not less than all of its Proportionate Share of the Niagara Offered Shares at the Niagara Purchase Price and the terms set forth in the Niagara Sale Notice. The Niagara Purchase Notice shall state the number of Niagara Offered Shares it is desirous of purchasing which number shall either be its (i) Proportionate Share, or (ii) all but not less than all of the Niagara Offered Shares. If, within the Niagara Right of First Refusal Period, a Niagara Purchase Notice has not been received by Niagara Falls from an Other Party, such Other Party shall be deemed to have declined to purchase the Niagara Offered Shares being offered. If the Other Parties do not claim their respective Proportionate Share of the Niagara Offered Shares, any unclaimed Niagara Offered Shares shall be used to satisfy the claims of such Other Parties for Niagara Offered Shares in excess of their Proportionate Share. The closing of the sale of the Niagara Offered Shares shall occur on the first Business Day following the expiry of the sixty (60) day period following the date of receipt by the Other Parties of the Niagara Purchase Notice or, if the completion of such sale requires the prior approval of or notice to a third Person or Governmental Authority under Applicable Law or any instrument or agreement, within thirty (30) Business Days after receipt of such approval or required period of notice or on such later date as may be agreed by the Parties.

6.2 **Arbitration**

If a dispute is not resolved by the procedure set forth in Section 6.1 above, such dispute may, by any Party, be referred to and resolved by arbitration by a single arbitrator in accordance with the provisions of the *Arbitration Act, 1991* (Ontario), subject to the following modifications and additions:

(a) The arbitration shall take place in the Province of Ontario, and shall be conducted in English.

(b) The arbitration shall be conducted by a single arbitrator having no financial, business or personal interest in the outcome of the arbitration. The arbitrator shall be appointed jointly by agreement of the parties to such dispute. In the event the parties to such dispute are unable to agree on the appointment of the arbitrator within ten (10) days after notice of a demand for arbitration is given by a Party and agreed to by the other parties to such dispute, then the arbitrator shall be selected pursuant to the provisions of the *Arbitration Act, 1991* (Ontario).

(c) The arbitrator shall have the authority to award any remedy or relief that a court could order or grant in accordance with this Agreement including, without limitation, specific performance of any obligation, the issuance of an interim, interlocutory or permanent injunction, or the imposition of sanctions for abuse or frustration of the arbitration process.

(d) The arbitrator shall have sole and exclusive jurisdiction to examine into, hear and determine all matters and questions of fact and law in respect of which any powers or authority has been conferred upon the arbitrator, including questions of jurisdiction. The arbitral award shall be in writing, stating the reasons for the award and shall be final and conclusive and is not open to appeal, question or review in any court and any determination by the arbitrator made under this Article is hereby ratified and confirmed and is binding upon all persons. No proceedings by or before the arbitrator shall be restrained by injunction, prohibition or other process or proceeding in any court, or are removable by certiorari or otherwise into any court.

ARTICLE 7
GENERAL PROVISIONS

7.1 **Notices**

Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be given by facsimile or by hand-delivery as provided below. Any such notice or other communication, if sent by facsimile, shall be deemed to have been received on the Business Day following the sending, or if delivered by hand, shall be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address shall also

purporting to give the same and, unless otherwise provided, no such waiver shall constitute a waiver of any other provision of this Agreement nor constitute a continuing waiver, or operate as a waiver of, or estoppel with respect to, any subsequent failure to comply.

7.4 Counterparts

This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same agreement. Counterparts may be executed either in original or facsimile form and the Parties shall accept any signatures received by a receiving facsimile machine as original signatures of the Parties; provided, however, that any Party providing its signature in such manner shall promptly forward to the other Parties an original of the signed copy of this Agreement which was so facsimiled.

7.5 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The Parties agree that the courts of Ontario shall have exclusive jurisdiction to determine all disputes and claims arising under or pursuant to this Agreement.

7.6 Time of Essence

Time shall be of the essence hereof.

7.7 Severability

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions hereof and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. In respect of any provision so determined to be unenforceable or invalid, the Parties agree to negotiate in good faith to replace the unenforceable or invalid provision with a new provision that is enforceable and valid in order to give effect to the business intent of the original provision to the extent permitted by law and in accordance with the intent of this Agreement.

7.8 Assignment

The rights or obligations of each Party hereunder shall not be assignable without the prior written consent of all of the other Parties.

7.9 Successors

This Agreement shall be binding upon and ensure to the benefit of the Parties hereto and their respective successors and permitted assigns. Nothing herein, express or implied, is intended to confer upon any person, other than the Parties hereto and their respective successors and permitted assigns, any rights remedies, obligations or liabilities under or by reason of this Agreement.

OFFICE OF THE:
MAYOR
CHIEF ADMINISTRATIVE OFFICER
CLERK
DIRECTOR OF FINANCIAL SERVICES
DIRECTOR OF OPERATIONS
DIRECTOR OF PLANNING SERVICES
DIRECTOR OF BUILDING & ENFORCEMENT SERVICES

THE CORPORATION OF THE
TOWN OF PELHAM

TEL (905) 892-2607
FAX (905) 892-5055

POST OFFICE BOX 400
PELHAM MUNICIPAL BUILDING, 20 PELHAM TOWN SQUARE
FONTHILL, ONTARIO L0S 1E0

May 23, 2007

RECEIVED
MAY 30 2007
Pen West Utilities
Per

Mr. W. Brian Walker, President
Peninsula West Utilities Limited
4548 Ontario Street, Unit #2
Beamsville, ON L0R 1B5

Dear Mr. Walker;

Re: Peninsula West Utilities Limited and Niagara Falls Hydro Merger

Thank you for attending the meeting of Pelham Council on May 22, 2007 and for providing an update on this merger application.

As you are aware, Council passed this resolution following your presentation:

WHEREAS all of the Municipal Stakeholders of the Peninsula West corporate family approved, in principle, the merger term sheet in May 2006 and authorized Peninsula West to proceed with the negotiation of the merger of Peninsula West Utilities and Niagara Falls Hydro Inc.;

AND WHEREAS Niagara Falls Hydro Inc. has undertaken a similar approval process;

AND WHEREAS Peninsula West Utilities Limited and Niagara Falls Hydro Inc. have conducted due diligence and, with the advice of counsel, negotiated the Merger Agreement, Shareholder Agreement and the Municipal Cooperation Agreement, in accordance with the requirements of the term sheet;

AND WHEREAS each corporation has retained its own counsel to review the agreements;

AND WHEREAS the Province of Ontario granted in October 2006 a two year transfer tax exemption for the merger of municipally owned electricity distribution companies;

NOW THEREFORE BE IT RESOLVED THAT the Council of the Town of Pelham hereby approves the merger of Peninsula West Utilities Limited and Niagara Falls Hydro Inc., subject to the approval of the Ontario Energy Board (OEB);

AND FURTHER BE IT RESOLVED THAT a by-law be prepared authorizing the Mayor and Clerk to execute the Municipal Cooperation Agreement and other documents that may be deemed necessary to effect the merger.

... 2

Thank you for your continued work in this initiative and we look forward to further updates on the progress of this merger.

Yours very truly,

(Mrs.) Nancy J. Bozzato, AMCT, ACST
Deputy Clerk/Secretary-Treasurer

OFFICE OF THE:
MAYOR
CHIEF ADMINISTRATIVE OFFICER
CLERK
DIRECTOR OF FINANCIAL SERVICES
DIRECTOR OF OPERATIONS
DIRECTOR OF PLANNING SERVICES
DIRECTOR OF BUILDING & ENFORCEMENT SERVICES

THE CORPORATION OF THE
TOWN OF PELHAM

POST OFFICE BOX 400
PELHAM MUNICIPAL BUILDING, 20 PELHAM TOWN SQUARE
FONTHILL, ONTARIO L0S 1E0

TEL. (905) 892-2607
FAX (905) 892-5055

RECEIVED
JUN 29 2007
Pen West Utilities
For

June 26, 2007

MR. W. BRIAN WALKER, PRESIDENT
PENINSULA WEST POWER INC.
4548 ONTARIO STREET, UNIT 2
BEAMSVILLE ON L0R 1B5

Dear Mr. Walker:

This is to advise that Council of the Town of Pelham, at its last regular meeting held on Monday, June 18, 2007, enacted By-law #2880 (2007) – Being a by-law to provide for the merger of Peninsula West Utilities Limited and Niagara Falls Hydro Inc.

Enclosed herein, for your records, please find a copy of By-law #2880 (2007).

Trusting this is to your satisfaction.

Yours very truly,

Cheryl Miclette

Cheryl Miclette, AMCT
Town Clerk

Cc: Mr. William Kolasa, Clerk
Town of Lincoln

Mrs. Carolyn Langley, Clerk
Township of West Lincoln

THE CORPORATION OF THE
TOWN OF PELHAM
BY-LAW #2880 (2007)

Being a by-law to provide for the merger of Peninsula West Utilities Limited and Niagara Falls Hydro Inc.

WHEREAS the Council of the Corporation of the Town of Pelham Municipal Shareholder of the Peninsula West corporate family of companies;

AND WHEREAS all of the Municipal Shareholders of the Peninsula W corporate family approved, in principle, the merger term sheet in May 2006 and authori Peninsula West to proceed with the negotiation of the merger of Peninsula West Utili Limited and Niagara Falls Hydro Inc.;

AND WHEREAS Niagara Falls Hydro Inc. has undertaken a similar appro process;

AND WHEREAS Peninsula West Utilities Limited and Niagara Falls Hy Inc. have conducted due diligence and, with the advice of counsel, negotiated the Merg Agreement, Shareholder Agreement and the Municipal Cooperation Agreement accordance with the requirements of the term sheet;

AND WHEREAS each Corporation has retained its own counsel to review th agreements;

AND WHEREAS the Province of Ontario granted, in October 2006, a tw year transfer tax exemption for the merger of municipally owned electricity distributio companies;

NOW THEREFORE COUNCIL OF THE CORPORATION OF THE TOWN O PELHAM ENACTS AS FOLLOWS:

(1) THAT the Council of the Town of Pelham hereby approves the merger o Peninsula West Utilities and Niagara Falls Hydro Inc., in accordance with the indicated Merger Shareholder and Municipal Cooperation Agreements and subject to the approval of the Ontario Energy Board.

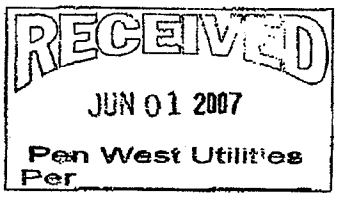
(2) THAT the Mayor and Clerk be authorized to execute a Municipal Cooperation Agreement and other documents necessary to effect the merger.

READ A FIRST, SECOND AND THIRD TIME
AND FINALLY PASSED BY COUNCIL THIS
18th DAY OF JUNE, 2007 A.D.

MAYOR

CLERK





TOWN OF LINCOLN
4800 South Service Road
Beamsville, ON L0R 1B1
TEL: 905-563-8205
FAX: 905-563-8566

May 29, 2007

Mr. Brian Walker, President
Peninsula West Utilities Limited
4548 Ontario Street, Unit 2
Beamsville, ON L0R 1B5

Dear Sir:

Re: Merger of Peninsula West Utilities Limited and Niagara Falls Hydro Inc.

The Council of the Town of Lincoln, at its meeting of May 22, 2007, approved the following motion:

"Whereas all of the Municipal shareholders of the Peninsula West corporate family approved in principle the merger term sheet in May 2006 and authorized Peninsula West to proceed with the negotiation of the merger of Peninsula West Utilities Limited and Niagara Falls Hydro Inc;

And whereas Niagara Falls Hydro Inc. has undertaken a similar approval process;

And whereas Peninsula West Utilities Limited and Niagara Falls Hydro Inc, have conducted due diligence and, with the advice of counsel, negotiated the Merger Agreement, Shareholder Agreement and the Municipal Co-operation Agreement in accordance with the requirements of the term sheet;

And whereas each corporation has retained its own counsel to review the agreements;

And whereas the Province of Ontario granted, in October 2006, a two year transfer tax exemption for the merger of municipally owned electricity distribution companies;

Now therefore be it resolved,
That the Council of the Town of Lincoln hereby approves the merger of Peninsula West Utilities and Niagara Falls Hydro Inc, in accordance with the indicated Merger, Shareholder and Municipal Co-operation Agreements and subject to the approval of the Ontario Energy Board;

And that a by-law be prepared authorizing the Mayor and Clerk to execute the Municipal Co-operation Agreement and other documents necessary to effect the merger".

A copy of By-law No. 07-45 is attached for your information.

Please forward any documents for execution by the Corporation of the Town of Lincoln.

Yours truly,

William J. Kolasa
Director of Corporate Services/Clerk

WJK/cr
Encl.

THE CORPORATION OF THE TOWN OF LINCOLN

BY-LAW NO. 07-45

A BY-LAW TO PROVIDE FOR THE MERGER OF PENINSULA WEST UTILITIES LIMITED AND NIAGARA FALLS HYDRO INC.

WHEREAS the Town of Lincoln is a Municipal Shareholder of the Peninsula West corporate family of companies;

AND WHEREAS all of the Municipal shareholders of the Peninsula West corporate family approved in principle the merger term sheet in May 2006 and authorized Peninsula West to proceed with the negotiation of the merger of Peninsula West Utilities Limited and Niagara Falls Hydro Inc;

AND WHEREAS Niagara Falls Hydro Inc., has undertaken a similar approval process;

AND WHEREAS Peninsula West Utilities Limited and Niagara Falls Hydro Inc., have conducted due diligence and, with the advice of counsel, negotiated the Merger Agreement, Shareholder Agreement and the Municipal Co-operation Agreement in accordance with the requirements of the term sheet;

AND WHEREAS each Corporation has retained its own counsel to review the agreements;

AND WHEREAS the Province of Ontario granted, in October 2006, a two year transfer tax exemption for the merger of municipally owned electricity distribution companies;

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWN OF LINCOLN HEREBY ENACTS AS FOLLOWS:

1. That the Council of the Town of Lincoln hereby approves the merger of Peninsula West Utilities and Niagara Falls Hydro Inc., in accordance with the indicated Merger Shareholder and Municipal Co-operation Agreements and subject to the approval of the Ontario Energy Board.

2. That the Mayor and Clerk be authorized to execute a Municipal Co-operation Agreement and other documents necessary to effect the merger.

BY-LAW read a FIRST time this 22nd day of May, 2007.
BY-LAW read a SECOND time this 22nd day of May, 2007.
BY-LAW read a THIRD time and FINALLY PASSED this 22nd day of May, 2007.

MAYOR: BILL HODGSON

CLERK: WILLIAM J. KOLASA

[TO BE ATTACHED TO THE MERGER AGREEMENT]

SCHEDULE 1.1

MERGECO SHAREHOLDERS AGREEMENT

Please see attached.

SCHEDULE 2.2

AMALGAMATION AGREEMENT

Please see attached.

SCHEDULE 2.5(A)

NFHI – EXCLUDED ASSETS

SCHEDULE 2.5(B)

PWUL – EXCLUDED ASSETS

SCHEDULE 5.2(4)

NFHI - OPTIONS

1. NFHI issued a promissory note to NF Holdco on April 1, 2000, representing an obligation to pay NF Holdco the principle sum of $3,605,090.00.

2. NFHI issued a promissory note to City of Niagara Falls on April 1, 2000, in the principle amount of $22,000,000.00.

SCHEDULE 5.2(7)

NFHI – CONDUCT OF BUSINESS

Nil.

SCHEDULE 5.2(9)

NFHI – REAL PROPERTY

NTD: These findings were as of search completed in 1999. To be updated prior to closing.

Properties quoted to the Commission were transferred to Niagara Falls Hydro as of April 1, 2000.

Description/Address	Location	Type of Property
7447 Pin Oak Drive **Instrument Number LT-25018 (registered September 1982)** **Lots 4 and 13, Plan M-40 and Part of Block B, Plan M-40 designated as Part 1, Plan 59R-3785**		**Business Office and Service Centre of Niagara Falls Hydro**
Instrument Number 307918 and 307921 (registered April 1978) **Part Twp. Lot 164 Stamford, now City of Niagara Falls, being Parts 1 and 2, Reference Plan 59R-2392**	**Kalar Road west side between McLeod Road and Lundy's Lane, near Coventry Road**	
Instrument number: 55809 (registered 1953) Part of lots 2 and 3, Plan 35, Block EE, now Plan 999 and 1000, Niagara Falls	**Lands on the north side of Park street, east of Crysler Avenue**	**This property is subject to an easement in favour of Bell Canada registered as instrument 712014 in 1996.**
Instrument number: 39575 (registered September, 1941) Lot 217, Plan 997, City of Niagara Falls	**East side of Hickson Avenue, north of Buttrey**	

Description/Address	Location	Type of Property
Instrument number: 51709 and 51103 (registered May 1950) minus lands conveyed away by instrument 51711 (October 1950) **Part lots 80 and 81, plan 27, now plan 325, City of Niagara Falls**	**South side of Huron Street, west of Homewood**	**This parcel was conveyed to the Commission in two separate deeds and then the Commission transferred the frontage on Homewood to a private individual leaving a parcel with a frontage of about 50 feet on Huron Street.**
Instrument number: 80652A (Registered October 1962) 132087 (Registered October, 1970) **Part of lots 28,29,and 30, Plan 276 and part of losts 150 and 201 on the south side of Armoury Street, Plan 1002**	**Lands at 5034 and 5036 Victoria Avenue**	**Former commission offices on Victoria at Armoury.** ***** Note: asset excluded from merger transaction.*****
Instrument number: 55785 (registered June, 1953) **Lot 13, plan 41 now known as Plan 328**	**5034 Ontario Avenue**	**This property is subject to an easement in favour of the Niagara Region for sewer purposes as set out in instrument number 596641. It is also subject to an unregistered Agreement respecting parking for the use of a neighbour Donald Braun.**
Instrument Number 52861 (registered June 1951) **Lot 29, Plan 1063, now Plan 11 City of Niagara Falls**	**Southeast side of Lewis Avenue between Magdalen and Centre**	
Instrument Number 361029 (registered May 1980) less lands conveyed by instrument 382665 (December 1981)	**Northeast side of Swayze Drive, east of Johnson Drive**	**The Commission transferred part of the land first conveyed to it to a neighbouring land owner leaving a parcel owned by the Commission of about 80**

Description/Address	Location	Type of Property
Our lands now Part 2, Plan 59R-3643 – Part of Township Lot 43 for the Township of Stamford		**feet frontage on Swayze by about 40 feet depth.**
Instrument number 37492 (registered November 1945) **Lot 32, Plan 56, Township of Stamford, now City of Niagara Falls**	**Lands on the north side of Virginia Street at the corner of Carroll**	
Created by instrument 87174 (1956) and assigned to Commission by instrument 469722 (1977)	**East side of Portage Road south of Thorold Stone Road**	
Instrument number 469809 (registered April 1986)	**Rear lands south of Corwin Crescent, north of Dunn Street, east of Dorchester Road**	
Instrument number 50401 (registered November 1949)	**North side of Margaret Street between Joyce Avenue and Drummond Road**	
Instrument Number: 78199A (registered August, 1962) **Part of Twp. Lots 5, 16, 25 and road allowance between Lots 16 and 25, all Stamford Township, now City of Niagara Falls**	**Lands east of St. Paul Street, north of Mountain Road**	**Three separate parcels running east of St. Paul Street from Mountain Road apparently to connect to water facilities of the former Township of Niagara**
Instrument Number 46656 (registered June 1951) **Part Twp. Lot 49 Stamford, now City of Niagara Falls (60’ x 60’ parcel)**	**East side of Thorold Town Line, north of Mountain Road**	

Please note the locations of substations as listed in the April 30, 2006 Financial Statements:

- **Ontario Avenue**
- **Park Street**
- **Lewis Avenue**
- **Robinson Street**
- **Drummond Road**
- **Margaret Street**
- **Kalar Road**
- **Virginia Street**
- **Sinnicks**
- **Pew Street**

SCHEDULE 5.2(10)

NFHI – LEASED PROPERTY

Nil.

SCHEDULE 5.2(11)(F)

NFHI – ENCUMBRANCES

Nil.

SCHEDULE 5.2(13)

NFHI – EQUIPMENT LEASES

Nil

SCHEDULE 5.2(16)

NFHI – INSURANCE POLICIES

Policy No.	Name of Insurer	Type of Coverage	Coverage/Limit	Deductible	Period Covered	Annual Premium
L2006N1FA1	The Municipal Electric Association Reciprocal Insurance Exchange	General Liability (including premises and operations and products and completed operations); Bodily Injury; Personal Injury; Property Damage; Tenants Legal Liability; Environmental Impairment; Errors & Omissions/Professional Liability; Non-Owned Automobile; Legal Expense Reimbursement; and Enhanced Directors and Officer's Liability.	$20,000,000.00 per occurrence.	Individual Member Deductible: $0 Environmental Impairment Deductible: $20,000.00 or 1% of annual service revenue, whichever is the lesser.	January 1, 2006 to January 1,2007 (12:01 a.m.)	$58,780.00 (net of premium reduction) $9,494.00 (before taxes) is the deductible to be paid with respect to Enhanced Directors and Officers Liability claims.
AUTO-2006-188	The Municipal Electric Association Reciprocal Insurance Exchange	Bodily Injury; Property Damage; Accident Benefits (Basic Benefits); Uninsured Automobile; Direct Compensation-Property Damage; and	$15,000,000.00 for Bodily Injury and Property Damage. With respect to Uninsured Automobile, the	Loss or Damage (all perils) is $1,000.00.	January 1, 2006 to January 1, 2007 (12:01 a.m.)	2006 Premium; $29,645.00

Policy No.	**Name of Insurer**	**Type of Coverage**	**Coverage/Limit**	**Deductible**	**Period Covered**	**Annual Premium**
		Uninsured Automobile.	limit is stated in Section 5 of the Policy.			
	AON Corporation	Casualty (Comprehensive Crime and Councillors' Accident) and Property (Property/Data Processing and Boiler and Machinery)	Blanket Amount on Property Insured; $21,303,700.00 (basis of loss is replacement cost). Limit on Valuable Papers; $500,000.00. Limit on Accounts Receivable; $500,000.00. Limit on Extra Expense Insured at Any One Location; $500,000.00. Rent or Rental Value Form; $500,000.00.	$1,000.00 for Data Processing Insurance. $5,000.00 for all other claims. Exceptions: • Peril of Flood is $25,000.00 • Peril of Earthquake is 3% or minimum $300,000.00	May 1, 2005 to May 1, 2006.	$52,815.00 (plus 8% PST)

Policy No.	**Name of Insurer**	**Type of Coverage**	**Coverage/Limit**	**Deductible**	**Period Covered**	**Annual Premium**
			Data Processing Insurance; $867,000.00. Data Processing Insurance; $867,000.00			

Pending Claims:

Nil.

SCHEDULE 5.2(18)

NFHI – MATERIAL CONTRACTS

1. Commitment Letter dated August 18, 2006 from Scotiabank to NFHI regarding the following credit facilities:

   (a) Operating Line of Credit in the authorized amount of $3,000,000 (Credit Number 01);

   (b) Standby Letters of Credit in the authorized amount of $6,000,000 (Credit Number 02);

   (c) Non-Revolving Line of Credit in the authorized amount of $5,761,392 (Credit Number 03 as of December 31, 2007); and

   (d) Corporate VISA and/or VISA Purchase Card and/or Scotia Visa for Business, Availment, interest rate and repayment as per Cardholder/purchase Card Agreement in the authorized amount of $300,000.

SCHEDULE 5.2(20)

NFHI – PERMITS

1. Electricity Distribution Licence ED-2002-0551 dated June 6, 2003 issued by the Ontario Energy Board to Niagara Falls Hydro Inc. Valid until March 31, 2023.

2. IeSo Market Participant #102102

3. Certificate of Exemption from Registration as a Non-Gaming Related Supplier under the Gaming Control Act, 1992, File # 00052230 valid until 2008-04-17; annual renewal

SCHEDULE 5.2(26)

NFHI – UNUSUAL TRANSACTIONS

Nil

.

SCHEDULE 5.2(28)

NFHI – LITIGATION

Nil.

SCHEDULE 5.2(29)

NFHI – NON-ARM'S LENGTH TRANSACTIONS

Nil.

SCHEDULE 5.2(30)(A)

NFHI – ENVIRONMENTAL COMPLIANCE

Environmental issues related to Victoria Avenue property.

SCHEDULE 5.2(30)(B)

NFHI – ENVIRONMENTAL PERMITS

Nil

SCHEDULE 5.2(31)

NFHI – EMPLOYEE PLANS

TYPE OF PLAN	DESCRIPTION OF PLAN	AGREEMENT DATE	CONTRACT NO.	SUPPLIER
Deferred Compensation	N/A			
Bonus Compensation	N/A			
Incentive or Other Compensation	Education/Training			
Share Option or Purchase	N/A			
Severance/Termination	N/A			
Group Benefit Program:		01/FEB/2000	15212	Manulife Financial
Hospitalization	Deductible - Nil			
	100% private room Public Hospital			
Medical Benefit	EHC- 100% Eligible Coverage Deductible - single $10, family $20			
Life/Other Insurance	Basic Term – 150% of annual earnings			
	LTD Board & President			

	$5500 max Managers $3500 max Employees $2600 max			
Vision	Deductible – Nil $375/24 mths			
Dental	Deductible – Nil 100% of applicable fee guide Up to $1900 / 2007 Up to $2000 / 2008			
Drug	Deductible – Nil Except as noted .20 / prescription			
Other	Deductible – Nil 100% $300 lifetime max			
Sick Leave	18 days / year	01/APR/06	N/A	Contract Agreement
Long Term Disability	$5500 / mth max Board of Directors & President $3500 / mth max Managers $2600 / mth max Employees	01/FEB/00	15212	Manulife Financial
Vacation Entitlement	Up to 1 yr – up to 10 days 1 yr – 10 days 3 yrs – 15 days			

	10 yrs – 20 days 16 yrs – 25 days 22 yrs – 26 days 23 yrs – 27 days 25 yrs – 30 days			
Supplemental Unemployment Benefits	WSIB – Top-up to full wage (difference paid by company)	01/APR/06	N/A	Contract Agreement
Profit Sharing	N/A			
Mortgage Assistance	N/A			
Pension	See plan provisions		403091	OMERS
Supplemental Pension	N/A			
Retirement Compensation	N/A			
Group Registered Retirement Savings	N/A			
Deferred Profit Sharing	N/A			
Employee Profit Sharing	N/A			

Retirement or Supplemental Retirement	N/A			

DESCRIPTION OF RETIREE BENEFITS

1. ***Eligibility and Benefit Term***:

   (a) Non-Union Employees:

      (i) *Eligibility*: Board of Directors

      (ii) *Benefit Term*: Until age 75

   (b) Union Employees:

      (i) *Eligibility*: Regular employees

      (ii) *Benefit Term*: Until age 65 or retirement whichever is earlier with a minimum of 20 years of service. **see article 21.04 of the collective agreement*

      Employees hired before January 1, 2007 are eligible until age 65 with a minimum of 20 years of service.

2. ***Spouse Coverage***:

   (a) *Eligibility*: Dependants of employees

   (b) *Spouse/Dependent Coverage*:

      (i) Included as above, however years of service does not apply if employee dies – *see article 21.0 of the collective agreement*

3. ***Life Insurance***: MEARIE

4. ***Supplementary Health Benefits***: Coordination of benefits provision

   (a) *Prescription Drugs*:

   (b) *Major Medical*:

(c) *Hospital*:

(d) *Out of Country Coverage*: Travel – deductible-nil 100% of eligible charges

Deluxe Travel – Max 60 days coverage – 1,000,000 / person

(e) *Out of Province Coverage*: Travel – deductible-nil 100% of eligible charges

Deluxe Travel – Max 60 days coverage – 1,000,000 / person

(f) *Dental*:

(g) *Vision care*:

SCHEDULE 5.2(32)

NFHI – EMPLOYEE MATTERS

Nil.

SCHEDULE 5.2(35)

NFHI – JOINT VENTURE INTERESTS

Nil.

SCHEDULE 5.2(37)

NFHI – THIRD PARTY CONSENTS

1. Consent of Scotiabank pursuant to the Commitment Letter dated August 18, 2006 from Scotiabank to NFHI.

SCHEDULE 5.3(7)

PW HOLDCO – LITIGATION

1. **Possible West Lincoln Shareholder litigation arising from its non-approval of the Amalgamation**

SCHEDULE 5.4(4)

PWUL – OPTIONS

Nil

SCHEDULE 5.4(7)

PWUL – CONDUCT OF BUSINESS

Nil.

SCHEDULE 5.4(9)

PWUL – REAL PROPERTY

Description/Address	Location	Type of Property
Decommissioned DS RSC #3187 Part of Lot 9, Gore A being Parts 1 & 3, Plan 30R-4596 and surface rights only for part 2, Plan 30R-4596		**Vacant Land**
JORDAN D.S. 2860 RED MAPLE AVE CON 3 PT LOT 18 JORDAN ONTARIO RP 30R9768 PART1		**Distribution Station**
CAMPDEN D.S. 4299 FLY RD PLAN 30M14 PT LOT 18 CAMPDEN ONTARIO RP 30R308 PT 1		**Distribution Station**
GREENLANE D.S. 3897 GREENLANE RD CON 1 PT LOT 5 BEAMSVILLE ONTARIO RP 30R9770 PART 1		**Distribution Station**
PELHAM ST D.S. 1420 PELHAM ST PLAN 715 PT LOT 1 FONTHILL ONTARIO RP 59R10058 PART 1		**Distribution Station**
PELHAM D.S. 1582 PELHAM ST PLAN 12 PT LOT 23		**Distribution Station**

FONTHILL ONTARIO
STATION STREET D.S.
STATION ST WS
FONTHILL ONTARIO
RP59R5448 PART 1

Distribution Station

SMITHVILLE D.S.
CON 9 PT LOT 5
265 ST CATHARINES ST
SMITHVILLE ONTARIO

Distribution Station

SCHEDULE 5.4(10)

PWUL – LEASED PROPERTY

Description of Lease	Parties	Execution Date	Expiry Date	Option to Renew, if any	Location of Leased Lands and Premises	Lease Payments
OFFICE SPACE	**ABRAM DUECK IN TRUST and PWUL**	**OCT 19/06**	**OCT 31/07**	**YES**	**4548 ONTARIO ST UNIT 2**	**$3476.92 PER MOS**
Service Center	**PWP and PWU**	**See Lease**	**See Lease**	**See Lease**	**Quarry Road** Service Centre 3768 Quarry Road Beamsville Ontario	**See Lease**

SCHEDULE 5.4(11)(F)

PWUL – REAL PROPERTY ENCUMBRANCES

1. TD Bank security, including a General Security Agreement, regarding PWUL;

2. TD Bank security, including a General Security Agreement, regarding PWUL guarantee of NWTC.

SCHEDULE 5.4(12)

PWUL –PERSONAL PROPERTY PROPERTY ENCUMBRANCES

1. TD Bank security, including a General Security Agreement, regarding PWUL;

2. TD Bank security, including a General Security Agreement, regarding PWUL guarantee of NWTC.

SCHEDULE 5.4(13)

PWUL – EQUIPMENT LEASES

Description of Property	Lease No.	Lessor	Date of Lease	Term (Months)	Term (Period)	Instalment Price	Renewal Options	Lea
Ricoh AF2060 Copier Printer Scanner SR850 finisher with 3-hole punch	**NA**	De Lage Landen Lease (JBM Office Systems)**]**	**JULY 26/06**	**48**	Expires 2010	**NA**	If the equipment is not returned upon expiration of the term of the lease, the lease will automatically renew for an additional 12-month term. Cannot cancel lease for any reason including equipment failure, loss or damage. Cannot transfer the lease to a new owner without prior written consent. If the lessor consents, the lessor may charge an assignment fee of up to 2% of the original cost of the equipment	$68 plu
Hydro metering equipment	**5194-1**	Culease Financial Services	Dec 2002	84 months	**2009**	**NA**	**NONE**	$1, tax
software licence and consulting equipment	**NA**	Advanced Utility Systems	April 23, 1999	Initial term is one year and shall continue on an annual basis.	Indefinite unless terminated	**NA**	Initial term is one year and shall continue on an annual basis provided that the Organization pay the annual support fee unless terminated by either party upon giving to the other not less than 90 days notice in writing prior to the end of the first year or any subsequent anniversary of such date.	Mu fee age per obl sec lea An $35 Ser rate hou An of

SCHEDULE 5.4(16)

PWUL – INSURANCE POLICIES

Policy No.	Name of Insurer	Type of Coverage	Coverage/Limit	Deductible	Period Covered	Annu Premi
L2007PENW1	The Municipal Electric Association Reciprocal Insurance Exchange	General Liability (including premises and operations and products and completed operations); Bodily Injury; Personal Injury; Property Damage; Tenants Legal Liability; Environmental Impairment; Errors & Omissions/Professional Liability; Non-Owned Automobile; Legal Expense Reimbursement; and Enhanced Directors and Officer's Liability.	$20,000,000.00 per occurrence.	Individual Member Deductible: $0 Environmental Impairment Deductible: $20,000.00 or 1% of annual service revenue, whichever is the lesser.	January 1, 2006 to January 1, 2007 (12:01 a.m.)	$4158 .
AUTO2007-148	The Municipal Electric Association Reciprocal Insurance Exchange	Bodily Injury; Property Damage; Accident Benefits (Basic Benefits); Uninsured Automobile; Direct Compensation-Property Damage; and Uninsured Automobile.	$15,000,000.00 for Bodily Injury and Property Damage. With respect to Uninsured Automobile, the limit is stated in Section 5 of the Policy.	0.	January 1, 2006 to January 1, 2007 (12:01 a.m.)	$165
P2007PENW1	The Municipal Electric Association	PROPERTY	LIMIT $4,000,000.	0	JAN 1/07 TO JAN 1,	$912

	Reciprocal Insurance Exchange				08	

5.4(18)

PWUL – MATERIAL CONTRACTS

1. Toronto-Dominion Term Loan of $ 9,500, 000 as at December 31, 2006 due July2008;

2. Toronto Dominion Bank banking agreement – dated January 30, 2006 1) Operating loan - $ 1,000,000 Prime + 0%; 2) Committed Revolving Facility $12, 500, 000 Prime + 0%; 3) Letter of Credit $ 2, 120, 000;

3. Business and Banking Services Agreement dated July 6, 2006;

4. Corporate VISA Royal Bank for Business availment, interest rate and repayment as per Cardholder/purchase Card Agreement ;

5. PWUL Guarantee of NWTC up to $3,250,000 in favour of TD Bank and all related documentation, including a General Security Agreement;

6. Joint Venture Agreement Dated dated as of September 15, 2003 among Niagara West Transformation Corporation ("NWTC"), PW Holdco, PWUL, Niagara Power Inc. and Grimsby Power Inc.(the "NWTC Joint Venture Agreement");

7. Pole Line Agreement dated January 1, 2004 between PWUL and Grimsby Power Inc.

8. Connection and Cost Recovery Agreement between PWUL and Hydro One;

SCHEDULE 5.4(20)

PWUL – PERMITS

OEB DISTRIBUTION LICENSE ED 2002-0555

, December 27, 2007

IESO MARKET PARTICIPANT MP # 104289

SCHEDULE 5.4(26)

PWUL – UNUSUAL TRANSACTIONS

1. Ongoing PWUL Guarantee of NWTC up to $3,250,000 in favour of TD Bank and all related documentation, including a General Security Agreement;

2. On May 25, 2007, PWUL transfer of 120 Class "A" shares in the capital of NWTC to PW Holdco.

3. Transfer of the Quarry Road property from PWU to PWP.

SCHEDULE 5.4(28)

PWUL – LITIGATION

1. Any potential action by Municipality of West Lincoln regarding the merger.

SCHEDULE 5.4(29)

PWUL – NON-ARM'S LENGTH TRANSACTIONS

Parties	Description of Agreement/ Transaction	Written Agreement (Yes/No)	Date of Agreement	Term	Expiry Date	Annual Fee/ Commitments	Comments
PWPI	SERVICE AGREEMENT	YES	NOV1, 2000	NO EXPIRY DATE		BASED ON ANNUAL HOURS SPENT	
PWSL	SERVICE AGREEMENT	YES	NOV1, 2000	NO EXPIRY DATE		BASED ON ANNUAL HOURS SPENT	
NWTC	NWTC Joint VentureAgreement	YES	Sept 5/03	NO EXPIRY DATE			
NWTC	POLE LINE AGREEMENT RE NWTC	YES	Jan 1/04	NO EXPIRY DATE			

SCHEDULE 5.4(30)(A)

PWUL – ENVIRONMENTAL COMPLIANCE

1. Environmental issues related to Quarry Road property;

SCHEDULE 5.4(30)(B)

PWUL – ENVIRONMENTAL PERMITS

1. CA regarding remediation of Quarry Road property

SCHEDULE 5.4(31)

PWUL – EMPLOYEE PLANS]

TYPE OF PLAN	DESCRIPTION OF PLAN	AGREEMENT DATE	CONTRACT NO.	SUPPLIER
Deferred Compensation	NA			
Bonus Compensation	NA			
Incentive or Other Compensation	NA			
Share Option or Purchase	NA			
Severance/Termination	NA			
Group Benefit Program:				
Hospitalization	SEMI PRIVATE	JAN 1 – DEC 31/07	0130	MEARIE
Medical Benefit	100 % COST OF MEDICAL SRV, DRUG & VISION	JAN 1 – DEC 31/07	0130	MEARIE
Life/Other Insurance	2X ANN. EARN TO MAX $200,000. MEDICAL EVID	JAN 1 – DEC 31/07	0130	MEARIE

	AFTER $100,000.			
Vision				
Dental	100% BASED ON BASIC DENT SRV.	JAN 1 – DEC 31/07	0130	MEARIE
Drug				
Other				
Sick Leave	PER COLLECTIVE AGREEMENT			
Long Term Disability	PAYABLE AFTER 17 WEEKS	JAN 1 – DEC 31/07	0130	MEARIE
Vacation Entitlement	PER COLLECTIVE AGREEMENT			
Supplemental Unemployment Benefits	NA			
Profit Sharing	NA			
Mortgage Assistance	NA			

Pension	OMERS			
Supplemental Pension	NA			
Retirement Compensation	NA			
Group Registered Retirement Savings	NA			
Deferred Profit Sharing	NA			
Employee Profit Sharing	NA			
Retirement or Supplemental Retirement	NA			

DESCRIPTION OF RETIREE BENEFITS

1. ***Eligibility and Benefit Term***:

   (a) Non-Union Employees:

      (i) *Eligibility*:

      (ii) *Benefit Term*:

   (b) Union Employees:

(i) *Eligibility*:

(ii) *Benefit Term*:

2. ***Spouse Coverage***:

(a) *Eligibility*:

(b) *Spouse/Dependent Coverage*:

(i)

3. ***Life Insurance***:

4. ***Supplementary Health Benefits***:

(a) *Prescription Drugs*:

(b) *Major Medical*:

(c) *Hospital*:

(d) *Out of Country Coverage*:

(e) *Out of Province Coverage*:

(f) *Dental*:

(g) *Visioncare*:

SCHEDULE 5.4(32)

PWUL – EMPLOYEE MATTERS

1. Temporary Employee written contract for the position of Administrative Assistant, expiry date of July 2008

SCHEDULE 5.4(35)

PWUL – JOINT VENTURE INTERESTS

1. PWUL is a party to the NWTC Joint Venture Agreement.

SCHEDULE 5.4(37)

PWUL – THIRD PARTY CONSENTS

1. Consent of Toronto-Dominion Bank pursuant to the Toronto-Dominion Term Loan of $9,500, 000 as at December 31, 2006 due July2008;

2. Consent of Toronto-Dominion Bank pursuant to the Toronto Dominion Bank banking agreement – dated January 30, 2006:

   (a) Operating loan - $ 1,000,000 @ Prime + 0%;

   (b) Committed Revolving Facility $12, 500, 000 @ Prime + 0%;

   (c) Consent of Toronto-Dominion Bank pursuant to the Letter of Credit $ 2,120,000;

3. Consent of Toronto-Dominion Bank pursuant to the Business and Banking Services Agreement dated July 6, 2006;

4. TD Bank Consent to the PWUL Guarantee of NWTC being assumed by Mergeco.

MERGER AGREEMENT

NIAGARA FALLS HYDRO HOLDING CORPORATION

- and -

NIAGARA FALLS HYDRO INC.

- and -

PENINSULA WEST POWER INC.

- and -

PENINSULA WEST UTILITIES LIMITED

BORDEN LADNER GERVAIS LLP
Barristers & Solicitors
Scotia Plaza
40 King Street West
Toronto, Ontario
M5H 3Y4

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MERGER AGREEMENT

THIS AGREEMENT made as of the _____ day of _____, 200__,

AMONG:

NIAGARA FALLS HYDRO HOLDING CORPORATION, a corporation incorporated under the laws of Ontario (**"NF Holdco"**)

- and -

NIAGARA FALLS HYDRO INC., a corporation incorporated under the laws of Ontario (**"NFHI"**)

- and -

PENINSULA WEST POWER INC., a corporation incorporated under the laws of Ontario (**"PW Holdco"**)

- and -

PENINSULA WEST UTILITIES LIMITED, a corporation incorporated under the laws of Ontario (**"PWUL"**)

RECITALS:

(a) NFHI was incorporated by Niagara Falls pursuant to Section 142 of the *Electricity Act* for the purpose of distributing electricity to the residents of Niagara Falls.

(b) PWUL was incorporated by Lincoln, Pelham and West Lincoln pursuant to Section 142 of the *Electricity Act* for the purpose of distributing electricity to the residents of Lincoln, Pelham and West Lincoln.

(c) All of the issued and outstanding shares of NFHI are owned by NF Holdco and all of the issued and outstanding shares of NF Holdco are owned by Niagara Falls.

(d) All of the issued and outstanding shares of PWUL are owned by PW Holdco and all of the issued and outstanding shares of PW Holdco are owned by Lincoln, Pelham and West Lincoln.

(e) NF Holdco and PW Holdco wish to amalgamate NFHI and PWUL upon the terms and conditions set out in this Agreement in order to form a new merged electricity distribution company to serve the residents of Niagara Falls, Lincoln, Pelham and West Lincoln and to pursue growth opportunities.

(f) The municipal councils of each of Lincoln, Pelham and Niagara Falls have approved the Amalgamation. The municipal council of West Lincoln did not approve the Amalgamation.

(g) The Penwest Shareholders' Agreement requires two thirds of the votes cast at a duly constituted meeting of the shareholders of PW Holdco to approve all decisions of such shareholders, including amalgamations. With the approval of Lincoln and Pelham, which collectively own 76% of the voting shares of PW Holdco, at a duly constituted meeting of the shareholders of PW Holdco, the shareholders of PW Holdco have approved the Amalgamation.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the respective covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1
INTERPRETATION

1.1 Defined Terms

All capitalized terms used in the recitals hereto and this Agreement (including the Schedules hereto) and not defined therein shall have the following meanings:

"Accounts Receivable" means accounts receivable, trade accounts receivable, notes receivable, book debts and other debts due or accruing due to NFHI or PWUL, as applicable, and the full benefit of any related security;

"Affiliate" has the meaning set forth in the OBCA.

"Affiliate Relationships Code" means the Affiliate Relationships Code for Electricity Distributors and Transmitters issued by the OEB as revised from time to time;

"Agreement" means this Agreement and all Schedules hereto, as amended, supplemented, restated or replaced from time to time in accordance with this Agreement;

"Amalgamation" means the amalgamation of NFHI and PWUL and continuation as Mergeco under the OBCA in accordance with this Agreement;

"Amalgamation Agreement" has the meaning set forth in Section 2.2;

"Amalgamation Effective Date" means the date after the Closing Date following the approval of the OEB pursuant to Section 4.3(1)(c) hereof upon which the Amalgamation shall become effective which shall be January 1, 2008 or such earlier or later date as may be agreed in writing by the Parties;

"Amalgamation Effective Time" means 12:01 a.m. on the Amalgamation Effective Date;

"Applicable Law" means, collectively, all applicable federal, provincial and municipal laws, statutes, ordinances, decrees, rules, regulations, by-laws, legally enforceable policies, codes, or guidelines, judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, orders, decisions, directives, rulings or awards, and conditions of any grant of approval, permission, certification, consent, registration, authority or licence by any statutory body, self-regulatory authority, stock exchange or other Governmental Authority, including all Employment Law and Environmental Law;

"Appurtenances" means, with respect to any real property:

(a) all buildings, structures, fixtures, improvements and appurtenances located on or forming part of that real property, including those under construction; and

(b) all rights of way, licences, rights of occupation, easements or other similar rights appurtenant to and for the benefit of that real property;

"Arm's Length" has the same meaning as for the purposes of the Tax Act;

"Associate" has the meaning set forth under the OBCA;

"Books and Records" means all books, records, files and papers of NFHI and PWUL, as applicable, including computer programs (including source codes and software programs), computer manuals, computer data, financial and Tax working papers, financial and Tax books and records, business reports, business plans and projections, sales and advertising materials, sales and purchases records and correspondence, trade association files, research and development records, lists of present and former customers and suppliers, personnel and employment records, minute and share certificate books, and all copies and recordings of the foregoing;

"Business Day" means any day other than a day which is a Saturday, a Sunday or a statutory holiday in the Province of Ontario;

"Claim" means:

(a) any suit, action, dispute, investigation, claim, arbitration, order, summons, citation, directive, charge, demand or prosecution, whether legal or administrative;

(b) any other proceeding; or

(c) any appeal or application for review;

at law or in equity or before or by any Governmental Authority;

"Closing" means the delivery of all documents and instruments required to effect the completion of the Amalgamation and of the other transactions and entering into of the documents and agreements referred to herein;

"Closing Date" means **[December 31, 2007]** or such earlier or later date following the approval of the OEB pursuant to Section 4.3(1)(c) as may be agreed upon in writing by the Parties;

"Closing Time" means the time of the Closing which shall be 10:00 am on the Closing Date or such other time on the Closing Date as may be agreed to by the Parties;

"Shares" means the voting common shares in the capital stock of Mergeco;

"Competition Act" means the *Competition Act* (Canada);

"Constating Documents" means, with respect to any Person, its articles or certificate of incorporation, amendment, amalgamation or continuance, by-laws and all unanimous shareholder agreements, other shareholder agreements, voting trusts, pooling agreements and similar Contracts, arrangements and understandings, all as amended, supplemented, restated and replaced from time to time;

"Contract" means, in respect of a particular Person, any contract, note, bond, mortgage, agreement, indenture, lease, agreement to lease, licence, personal property lease, commitment, understanding, instrument, option or any other instrument, document or obligation, oral or written, to which such Person is a party or whereby such Person's assets may be bound;

"Control" has the meaning set out in the OBCA;

"CRA" means the Canada Revenue Agency;

"Direct Claim" has the meaning set forth in Section 7.2(9);

"Disputes" has the meaning set forth in Section 8.28.2(1);

"Electricity Act" means the *Electricity Act, 1998* (Ontario) and the regulations thereto, as amended;

"Employment Law" means the *Employment Standards Act, 2000* (Ontario), the *Labour Relations Act, 1995* (Ontario), the *Pay Equity Act* (Ontario), the *Occupational Health and Safety Act* (Ontario), the *Human Rights Code* (Ontario) and the *Workplace Safety and Insurance Act, 1997* (Ontario) and any other applicable statute as it relates to employment matters;

"Encumbrance" means any encumbrance, lien, charge, hypothec, pledge, mortgage, title retention agreement, security interest of any nature, adverse claim, exception, reservation, easement, right of occupation, option, right of pre-emption, privilege or any matter capable of registration against title or any Contract to create any of the foregoing;

"Environment" means the ambient air, all layers of the atmosphere, surface water, underground water, all land, all living organisms and the interacting natural systems that include components of air, land, water, organic and inorganic matter and living organisms;

"Environmental Law" means all applicable statutes, regulations, ordinances, by-laws, Environmental Permits, orders, decisions and rules and any legally enforceable policies, codes or guidelines of a Governmental Authority (whether federal, provincial or municipal) relating to the Environment or the Release, use, transport, disposal or handling of Hazardous Substances, including without limitation the *Environmental Protection Act*, (Ontario), *Canadian Environmental Assessment Act*, *Canadian Environmental Protection Act*, *Dangerous Goods Transportation Act* (Ontario), *Energy Competition Act* (Ontario), *Environmental Bill of Rights* (Ontario), *Fisheries Act* (Canada), *Technical Standards and Safety Act* (Ontario), *Ontario Water Resources Act*, *Pest Control Products Act* (Canada), *Pesticides Act* (Ontario), *Transportation of Dangerous Goods Act* (Canada) and any applicable municipal noise or sewer use by-law;

"Environmental Permit" means any Permit required pursuant to Environmental Law;

"Fixtures" means fixtures, plants, buildings, structures, erections, improvements, appurtenances, machinery, equipment, substations, transformers, vaults, distribution lines, transmission lines, conduits, ducts, pipes, wires, rods, cables, fibre optic strands, devices, appliances, equipment, material, poles, pipelines, fittings and any other similar or related item;

"Good Utility Practices" means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in Ontario during the relevant time period, as applied to electricity distribution facilities of similar design, size and capacity to the facilities of NFHI or PWUL, or any of the practices, methods and acts which, in the exercise of reasonable judgement in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good practices, reliability, safety and expedition. Good utility practices is not intended to be the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in Ontario;

"Goods and Services Tax" means all tax payable under Part IX of the *Excise Tax Act* (Canada);

"Governmental Authority" means any government or political subdivision (including without limitation, any municipality or federal or provincial ministry) or quasi-governmental or regulatory agency, authority, board, commission, department or instrumentality of any government or political subdivision, or any court or tribunal, and specifically includes the OEB, the OPA, the Electrical Safety Authority and the IESO;

"Government Filings" has the meaning set forth in Section 5.2(19);

"Hazardous Substance" means:

(a) any petrochemical or petroleum product, oil or coal ash, mercury, radioactive material, radon gas, asbestos in any form that is friable, urea formaldehyde foam insulation or substance that contains or may contain PCBs;

(b) any chemical, material or substance defined as or included in the definition of "hazardous substance", "hazardous waste", "hazardous material", "hazardous constituent", "restricted hazardous material", "extremely hazardous substance", "toxic substance", "deleterious substance", "contaminant", "pollutant", "toxic pollutant" or words of similar meaning and regulatory effect under any applicable Environmental Law; and

(c) any other material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law;

"IESO" means the Independent Electricity System Operator of Ontario;

"in accordance with the terms of the Penwest Shareholders Agreement" means "with the approval of at least two thirds of the votes cast at a duly constituted meeting of the shareholders of PW Holdco";

"includes" means "includes, without limitation" and **"including"** means "including without limitation";

"Income Tax" means any federal, provincial, territorial, municipal or foreign tax (i) imposed or based upon, measured by or calculated with respect to net income, income as specially defined, earnings, gross or net profits or selected items of income, earnings or profits (including capital gains taxes and minimum taxes); or (ii) based upon, measured by or calculated with respect to multiple bases (including corporate franchise taxes) if one or more of the bases on which such tax may be based, measured by or calculated with respect to, is described in (i), in each case together with any interest, penalties or additions to such tax;

"Indemnifying Party" has the meaning set forth in Section 7.1(5);

"Indemnitee" means any Niagara Falls Indemnitee or Penwest Indemnitee;

"Indemnifiable Loss" has the meaning set forth in Section 7.1(1);

"Initial Board" has the meaning set forth in Section 2.3;

"Insolvency Official" means an administrator, trustee in bankruptcy, liquidator, receiver, administrative receiver, receiver-manager or other official or Person with similar or equivalent powers;

"Intellectual Property" means all intellectual property of whatever nature and kind, including patents and patent applications, trademarks and trademark applications, trade names, trading styles, domain names, certification marks, industrial designs and copyrights (whether registered or unregistered and all applications for registration thereof), computer software, information technology, inventions, works, designs, formulae, processes, procedures, know-how, trade secrets, industrial designs and plans, engineering designs and plans, blueprints and as-built plans and specifications, training, operating, safety, maintenance and any other manuals, documentation of procedures and

processes, design, user and maintenance information and service records and warranty records;

"Interim Period" means the period from and including the date of this Agreement to and including the Closing Date or the earlier termination date of this Agreement;

"Knowledge of NF Holdco" or **"Knowledge"** when referring to NF Holdco means the actual knowledge of the Chief Executive Officer and Chief Financial Officer of NF Holdco; after due enquiry of the officers and employees of NF Holdco and as applicable NFHI having knowledge of or responsibility for the matter, which is the subject of the enquiry;

"Knowledge of PW Holdco" or **"Knowledge"** when referring to PW Holdco means the actual knowledge of the Chief Executive Officer and Chief Financial Officer of PW Holdco; after due enquiry of the officers and employees of PW Holdco and as applicable PWUL having knowledge of or responsibility for the matter, which is the subject of the enquiry;

"Lincoln" means the Town of Lincoln;

"Loss" includes any and all damages, costs, charges, liabilities, awards, fines, fees, penalties, assessments, reassessments, claims, judgments, deficiencies, losses and expenses (including all remediation costs, fees of lawyers, accountants and other professionals and experts, or other expenses of litigation or proceedings or of any claim, default or assessment and interest thereon);

"MAAD Application" has the meaning set forth in Section 6.3(4);

"Material" means of such a nature or amount as would reasonably be expected to significantly influence or change a decision relating to the business or operations of that Person, and **"Materially"** has a corresponding meaning;

"Material Adverse Change" or **"Material Adverse Effect"** with respect to any Person means any change or effect that:

(a) individually or when taken together with all other changes or effects that have occurred during any relevant period of time before the determination of the occurrence of that change or effect is or is reasonably likely to be Materially adverse to the business, operations, assets, liabilities, capital, prospects, condition (financial or otherwise) or results of operation of that Person; or

(b) Materially adversely affects the ability of that Person to conduct its business after the Closing Date substantially as its business has been conducted to the date of this Agreement;

"Material Contract" means any Contract in respect of the NFHI Business or the PWUL Business, as applicable, which requires payment (including contingent payments) of more than $100,000 in aggregate during the term thereof; or any other Contract, the

termination or breach of which would result in a Material Adverse Effect on NFHI or PWUL, as applicable;

"Mergeco" has the meaning set forth in Section 2.1(2);

"Mergeco Shares" means the Shares and any other classes of shares of Mergeco from time to time;

"Mergeco Shareholders Agreement" means the shareholders agreement to be entered into by NF Holdco, PW Holdco and Mergeco on Closing to take effect as of the Amalgamation Effective Time substantially in the form and substance attached as Schedule 1.1;

"MOF" means the Ontario Ministry of Finance;

"Municipal Agreement" means the Municipal Co-operation Agreement among Niagara Falls, Lincoln and Pelham dated the same date as this Agreement;

"New Niagara Falls Shareholder Declaration" means the shareholder declaration in respect of NF Holdco and Mergeco to be issued by Niagara Falls at or prior to Closing and effective as at the Amalgamation Effective Date in the form as mutually agreed by the Parties;

"New Penwest Shareholders'Agreement" means the agreement of the shareholders of PW Holdco approving the amendments to the Penwest Shareholders' Agreement in accordance with the terms of the Penwest Shareholders' Agreement to be issued by Lincoln and Pelham at or prior to Closing and effective as at the Amalgamation Effective Date in the form as mutually agreed by the Parties;

"NFHI Business" means the electricity distribution businesses and the provision of other ancillary services carried on by NFHI;

"NFHI Collective Agreement" means the collective bargaining agreement between NFHI and Local Union No. 636 of the International Brotherhood of Electrical Workers (April 1, 2006 – March 31, 2009).

"NFHI Easements" means all of the following real property interests enjoyed or used by or for the benefit of the NFHI Business: (i) all easements and rights of way, registered and unregistered; (ii) the right to use, transverse, enjoy or have access to, over, in or under any real property, whether public or private; and (iii) all permits, licences and permissions received, used or enjoyed in respect of any of the foregoing and any right or benefit in the nature or character of any of the foregoing;

"NFHI Employee Plans" has the meaning set forth in Section 5.2(31)(a);

"NFHI Employees" means all full time and part time, union and non-union employees and contract employees of NFHI;

"NFHI Encumbrances" has the meaning set forth in Section 5.2(11)(f);

"NFHI Environmental Permits" has the meaning set forth in Section 5.2(30)(b);

"NFHI Equipment Leases" means the leases and agreements to lease under which NFHI leases any personal property and described in Schedule 5.2(13);

"NFHI Excluded Assets" has the meaning set forth in Section 2.5(a);

"NFHI Insurance Policies" has the meaning set forth in Section 5.2(16);

"NFHI Leased Property" means all leasehold interests in real property held by NFHI;

"NFHI Permits" has the meaning set forth in Section 5.2(20)(a);

"NFHI Promissory Note" means the promissory note issued by NFHI to NF Holdco in the principal amount of $3,605,090.00, and the promissory note issued by NFHI to City of Niagara Falls in the principal amount of $22,000,000.00, as such promissory notes may be replaced or amended from time to time.

"NFHI Real Property" means all real property (excluding NFHI Leased Property and NFHI Easements) that is owned by NFHI;

"NFHI Real Property Leases" means all leases in respect of NFHI Leased Property and described in Schedule 5.2(9);

"NFHI Third Party Consents" means the Third Party Consents listed in Schedule 5.2(37);

"NFHI 2005 Financial Statements" means the NFHI audited financial statements for the period ended December 31, 2005;

“Niagara Falls” means the City of Niagara Falls;

"Niagara Falls Indemnitee" has the meaning set forth in Section 7.1(3);

"Niagara Falls Shareholder Declaration" means the Shareholder Declaration dated April 1, 2000 made by Niagara Falls in respect of NF Holdco and its subsidiaries, including NFHI;

"OBCA" means the *Business Corporations Act* (Ontario) and the regulations thereto, as amended;

"OEB" means the Ontario Energy Board or any successor thereto;

"OEB Act" means the *Ontario Energy Board Act, 1998* (Ontario) and the regulations thereto, as amended;

"OMERS" means the Ontario Municipal Employees Retirement System;

"OMERS Board" means the Ontario Municipal Employees Retirement System Board;

"OPA" means the Ontario Power Authority and any successor thereto;

"Ordinary Course" means, with respect to an action taken by a Person, that the action is consistent with the past practices of the Person and is taken in the normal day-to-day operations of the Person;

"Parties" means the parties to this Agreement, and **"Party"** means any one of them;

"PCBs" means poly-chlorinated biphenyls;

"Pelham" means the Town of Pelham;

"Penwest Indemnitee" has the meaning set forth in Section 7.1(1);

"Penwest Shareholders' Agreement" means the shareholders agreement dated October 25, 2000 among Lincoln, Pelham and West Lincoln in respect of PW Holdco and its subsidiaries including PUWL;

"Permitted Encumbrances" means:

(a) the NFHI Encumbrances;

(b) the PWUL Encumbrances;

(c) statutory liens for any Taxes not yet due or delinquent or the validity of which is being contested in good faith by appropriate proceedings;

(d) construction, materialmens', carriers', workers', repairers' and other similar liens arising or incurred in the Ordinary Course, as to which there is no default on the part of NFHI or PWUL, as applicable, or the validity of which is being contested in good faith by appropriate proceedings;

(e) any Encumbrance evidenced by a *Personal Property Security Act* (Ontario) financing statement filed prior to the date of this Agreement to the extent the Encumbrance does not secure an amount in excess of the amount outstanding and secured at the date of this Agreement unless it is a purchase money security interest incurred in the Ordinary Course; and

(f) such other security interests, liens, imperfections in or failures of title, charges, restrictions, encroachments and defects in title which do not materially, individually or in the aggregate, detract from the value of NFHI or PWUL, as the case may be, nor, individually or in the aggregate, result in a Material Adverse Effect;

"Permits" mean all permits, licences, certificates, franchises, registrations, rights, privileges and other consents and approvals of any Governmental Authority;

"Person" means any individual, corporation, partnership, firm, joint venture, syndicate, association, trust, Governmental Authority and any other form of entity or organization;

"Personal Information" means any information in the possession, custody or control of NFHI or PWUL about an identifiable individual, and for greater certainty includes all such information which falls within the definition of "personal information" in any applicable personal information protection law of Canada, or any province or territory thereof to which NFHI or PWUL is subject;

"PILS" means payments in lieu of Taxes payable by NFHI and PWUL pursuant to Section 93 of the Electricity Act;

"Post-Closing Capital Structure" has the meaning set forth in Section 2.1(4);

"Public Announcement" has the meaning set forth in Section 6.3(6);

"PWUL Business" means the electricity distribution businesses carried on by PWUL and the provision of ancillary services;

"PWUL Collective Agreement" means the collective bargaining agreement between PWUL and Local Union No. 636 of the International Brotherhood of Electrical Workers (June 1, 2005 - October 31, 2007); PWUL and Local Union No. 303 of the International Brotherhood of Electrical Workers (November 1, 2005 - April 30, 2008);

"PWUL Easements" means all of the following real property interests enjoyed or used by or for the benefit of the PWUL Business: (i) all easements and rights of way, registered and unregistered; (ii) the right to use, transverse, enjoy or have access to, over, in or under any real property, whether public or private; and (iii) all permits, licences and permissions received, used or enjoyed in respect of any of the foregoing and any right or benefit in the nature or character of any of the foregoing;

"PWUL Employee Plans" has the meaning set forth in Section 5.4(31)(a);

"PWUL Employees" means all full time and part time, union and non-union employees and contract employees of PWUL;

"PWUL Encumbrances" has the meaning set forth in Section 5.4(11)(f);

"PWUL Environmental Permits" has the meaning set forth in Section 5.4(30)(b);

"PWUL Equipment Leases" means the leases and the agreements to lease under which PWUL leases any personal property and described in Schedule 5.4(13);

"PWUL Excluded Assets" has the meaning set forth in Section 2.5(b);

"PWUL Insurance Policies" has the meaning set forth in Schedule 5.4(16);

"PWUL Leased Property" means all leasehold interests in real property held by PWUL;

"PWUL Permits" has the meaning set forth in Section 5.4(20)(a);

"PWUL Real Property" means all real property (excluding PWUL Leased Property and PWUL Easements) that is owned by PWUL;

"PWUL Real Property Leases" means all leases relating to the PWUL Leased Property and described in Schedule 5.4(10);

"PWUL Third Party Consents" means the Third Party Consents listed in Schedule 5.4(37);

"PWUL 2005 Financial Statements" means the PWUL audited financial statements for the period ended December 31, 2005;

"Quarry Road Property" means the service centre owned by PW Holdco and located at 3768 Quarry Road, Beamsville, L0R 1B2;

"Release" means any release, spill, leak, emission, discharge, leaching, dumping, escape or other disposal;

"Representatives" of a Party means its Affiliates and directors, officers, employees, agents, partners and advisors of the party and/or its Affiliates (including external accountants, lawyers, environmental consultants, financial advisors and other authorized representatives);

"Schedule" means a schedule to this Agreement as identified in Section 1.2;

"Share Allocation" has the meaning set forth in Section 2.1(5);

"Tax Act" means the *Income Tax Act* (Canada) and the regulations thereto, as amended;

"Tax Return" means any return, report, information return, declaration, statement, election, notice, filing, form, or other document (including any schedule or related or supporting information) required to be supplied to or filed with any Governmental Authority with respect to Taxes, including any attached schedules or amendments thereto;

"Taxes" means all Income Taxes and all capital taxes, gross receipts taxes, surtaxes, environmental taxes, sales taxes, use taxes, ad valorem taxes, value added taxes, excise taxes, transfer taxes (including land transfer taxes and Transfer Tax), franchise taxes, license taxes, withholding taxes, payroll taxes, health taxes and premiums, employment taxes, Canada Pension Plan premiums, social security premiums, workers' compensation premiums, employment or unemployment insurance or compensation premiums, stamp taxes, occupation taxes, premium taxes, property taxes, windfall profits taxes, alternative or add-on minimum taxes, goods and services taxes (including the Goods and Services Tax), customs duties, rates, levies, all special payments and PILS pursuant to Part V.1 and Part VI of the Electricity Act and the regulations thereto and all other taxes, fees, imposts, duties, assessments or charges of any kind whatsoever imposed by any Governmental Authority, and any interest, penalties, additions to tax and other additional amounts imposed with respect to the foregoing;

"Term Sheet" means the Term Sheet dated June 8, 2006 among NF Holdco, NFHI, PW Holdco and PWUL relating to the proposed Amalgamation;

"Third Party" has the meaning set forth in Section 7.2(5);

"Third Party Claim" has the meaning set forth in Section 7.2(1);

"Third Party Consents" means declarations, notices to, or authorizations, consents, waivers, approvals or permissions of, any Person other than a Party to this Agreement, or any shareholder of a Party to this Agreement;

"Transfer Tax" means the tax payable pursuant to Section 94 of the Electricity Act or any similar tax or replacement or substitution thereof;

"Victoria Avenue Property" means the service centre owned by NFHI and located at 5024 and 5036 Victoria Avenue, Niagara Falls, Ontario; and

"West Lincoln" means the Township of West Lincoln.

1.2 Schedules

The following schedules, which are attached to this Agreement are incorporated into this Agreement by reference and form hereof. Each party has the right to update the Schedules prior to Closing.

Schedule Number	**Schedule Title**
Schedule 1.1	Mergeco Shareholders Agreement
Schedule 2.2	Amalgamation Agreement
Schedule 2.5(a)	NFHI – Excluded Assets
Schedule 2.5(b)	PWUL – Excluded Assets
Schedule 5.2(4)	NFHI – Options
Schedule 5.2(7)	NFHI – Conduct of Business
Schedule 5.2(9)	NFHI – Real Property
Schedule 5.2(10)	NFHI – Leased Property
Schedule 5.2(11)(f)	NFHI – Real Property Encumbrances
Schedule 5.2(12)	NFHI – Personal Property Encumbrances
Schedule 5.2(13)	NFHI – Equipment Leases
Schedule 5.2(16)	NFHI – Insurance Policies
Schedule 5.2(18)	NFHI – Material Contracts
Schedule 5.2(20)	NFHI – Permits
Schedule 5.2(26)	NFHI – Unusual Transactions
Schedule 5.2(28)	NFHI – Litigation
Schedule 5.2(29)	NFHI – Non-Arm's Length Transactions
Schedule 5.2(30)(a)	NFHI – Environmental Compliance
Schedule 5.2(30)(b)	NFHI – Environmental Permits
Schedule 5.2(31)	NFHI – Employee Plans
Schedule 5.2(32)(a)	NFHI – Employment Matters

Schedule Number	Schedule Title
Schedule 5.2(35)	NFHI – Joint Venture Interests
Schedule 5.2(37)	NFHI – Third Party Consents
Schedule 5.3(7)	PWUL – Litigation
Schedule 5.4(4)	PWUL – Options
Schedule 5.4(7)	PWUL – Conduct of Business
Schedule 5.4(9)	PWUL – Real Property
Schedule 5.4(10)	PWUL - Leases
Schedule 5.4(11)(f)	PWUL – Real Property Encumbrances
Schedule 5.4(12)	PWUL – Personal Property Encumbrances
Schedule 5.4(13)	PWUL – Equipment Leases
Schedule 5.4(16)	PWUL – Insurance Policies
Schedule 5.4(18)	PWUL – Material Contracts
Schedule 5.4(20)	PWUL – Permits
Schedule 5.4(27)	PWUL – Unusual Transactions
Schedule 5.4(28)	PWUL – Litigation
Schedule 5.4(29)	PWUL – Non-Arm's Length Transactions
Schedule 5.4(30)(a)	PWUL – Environmental Compliance
Schedule 5.4(30)(b)	PWUL – Environmental Permits
Schedule 5.4(31)	PWUL – Employee Plans
Schedule 5.4(32)(a)	PWUL – Employment Matters
Schedule 5.4(35)	PWUL – Joint Venture Interests
Schedule 5.4(37)	PWUL – Third Party Consents

1.3 Interpretation Not Affected by Headings

The division of this Agreement into articles, sections, subsections, paragraphs, subparagraphs and clauses and the insertion of headings are for the convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms "this Agreement", "hereof', "herein", "hereunder" and similar expressions refer to this Agreement and the schedules hereto and not to any particular article, section, paragraph, subparagraph, clause or other hereof and include any agreement or instrument supplementary or ancillary hereto. Each Party acknowledges that it and its legal counsel have reviewed and participated in settling the terms of this Agreement.

1.4 Number and Gender

In this Agreement, unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.

1.5 Generally Accepted Accounting Principles

Except as otherwise specifically provided in this Agreement, all accounting terms shall be applied and construed in accordance with generally accepted accounting principles consistently applied. References in this Agreement to **"generally accepted accounting principles"** or **"GAAP"** mean, for all principles stated from time to time in the Handbook of the Canadian Institute of Chartered Accountants, the principles as so stated.

1.6 Statutes and Agreement

Any reference in this Agreement to an agreement, or to a statute, regulation or rule promulgated under a statute or to any provision of an agreement, a statute, regulation or rule shall be a reference to the agreement, statute, regulation, rule or provision, as amended, restated, re-enacted or replaced from time to time.

1.7 Currency

Except where otherwise expressly provided, all amounts in this Agreement are stated and shall be paid in Canadian currency.

ARTICLE 2
AMALGAMATION

2.1 Amalgamation

(1) Subject to Section 2.1(2), all actions to be completed by each Party to give effect to the Amalgamation, including delivery of all documents required by either Party pursuant to the terms of this Agreement, shall be completed on or before the Closing Date.

(2) Notwithstanding the Closing Date provided in Section 2.1(1) and subject to and conditional upon the terms and conditions of this Agreement, the Parties agree that NFHI and PWUL shall amalgamate with each other effective on the Amalgamation Effective Date as at the Amalgamation Effective Time and continue as a corporation amalgamated under the laws of Ontario (**"Mergeco"**).

(3) The Parties shall determine a mutually agreeable corporate name for Mergeco prior to the Closing Date.

(4) Prior to Closing the Parties shall mutually agree on the capital structure of Mergeco to be in place as of the Amalgamation Date ("**Post-Closing Capital Structure**"). The Post-Closing Capital Structure shall be a prudent capital structure that is consistent with all applicable regulatory requirements including the rules and guidelines of the OEB.

(5) Mergeco shall issue as fully paid and non-assessable the following number of Shares in exchange for: (i) all of the issued and outstanding shares held by NF Holdco in NFHI; and (ii) all of the issued and outstanding shares held by PW Holdco in PWUL (the **"Share Allocation"**):

Party	**Mergeco Shares**
NF Holdco	745 Shares
PW Holdco	255 Shares

2.2 Amalgamation Agreement

On or prior to Closing, NFHI and PWUL shall execute and deliver an amalgamation agreement (the **"Amalgamation Agreement"**) substantially in form and substance attached as Schedule 2.2 together with all other documents, instruments and certificates required under the OBCA to give effect to the Amalgamation. The Amalgamation Agreement shall be filed in accordance with Section 178 of the OBCA on or as of the Amalgamation Effective Date.

2.3 Initial Mergeco Board of Directors

(1) The initial board of directors of Mergeco (the **"Initial Board"**) at Closing shall be comprised of eight (8) directors. NF Holdco shall be entitled to nominate four (4) directors. PW Holdco shall be entitled to nominate four (4) directors.

(2) The composition of the Initial Board shall be in compliance with the independent director requirements of the Affiliate Relationships Code.

(3) At all times, there shall be equal representation of both NFHI and PWUL on the board of Mergeco.

(4) Each of the four (4) directors nominated by NFHI and each of the four (4) directors nominated by PWUL shall be appointed for a term of one (1) to three (3) years each to be determined by the party nominating such director.

2.4 Interim Period

Immediately following the execution of this Agreement, each of the Parties shall designate representatives who shall be responsible for facilitating any matters relating to the Amalgamation during the Interim Period.

2.5 Transition Arrangements

(a) NFHI Transition Arrangements. Prior to the Amalgamation Effective Date, NFHI shall transfer the ownership of any assets listed in Schedule 2.5(a) (the **"NFHI Excluded Assets"**) to NF Holdco or some other Person and complete any registration of such transfer of ownership as may be applicable and all such transfers of the NFHI Excluded Assets to be evidenced in writing between NFHI as transferor and the transferee.

(b) PWUL Transition Arrangements. Prior to the Amalgamation Effective Date, PW Holdco and PWUL shall transfer the ownership of the assets listed in Schedule 2.5(b) (the **"PWUL Excluded Assets"**) to PW Holdco or some other Person and complete any registration of such transfer of ownership as may be applicable, all such transfers of the PWUL Excluded Assets to be evidenced in writing between PWUL as transferor and the transferee.

(c) Mutual Transition Arrangements. During the Interim Period, the Parties shall co-operate in good faith and use reasonable commercial efforts to address the following mutual transition arrangements:

(i) determination of the corporate name for Mergeco;

(ii) selection of Mergeco directors and senior officers in accordance with this Agreement and the Mergeco Shareholders Agreement;

(iii) consolidation and co-ordination of insurance policies of NFHI and PWUL to ensure proper insurance coverage for Mergeco;

(iv) operational and human resource support arrangements between Mergeco and affiliates to be in effect after the Amalgamation Effective Date;

(v) co-ordination of timing and content of public information process and public statements regarding this Agreement and the Amalgamation;

(vi) review of financial statements and accounting policies and reconciliation issues;

(vii) preparation of Mergeco pro forma financial statements;

(viii) selection of the auditor for Mergeco;

(ix) development of initial 3-year business plan for Mergeco;

(x) consolidation and co-ordination of employee benefit plans and development of benefit plan transition arrangements;

(xi) development of the capital structure of Mergeco;

(xii) development and co-ordination of dividend and financing policies and financing, credit and banking arrangements; harmonizing rates;

(xiii) completing any further valuation required as a result of the due diligence;

(xiv) seeking all required approvals, if any, pursuant to the Competition Act;

(xv) seeking the OEB's approval of the Amalgamation and any corresponding amendment of the electricity distribution licences held by NFHI and PWUL; and

(xvi) seeking a waiver of the Transfer Tax or special payment under Part VI of the Electricity Act as a result of the Amalgamation.

2.6 Initial Senior Executive Arrangements

The Parties acknowledge and agree that the following initial senior executive arrangements shall remain in effect as determined by Mergeco. Mergeco, in its discretion, shall determine the offices and responsibilities of the senior management of Mergeco and shall appoint such individuals as it may determine to hold such offices as it may determine:

(i) the Chief Executive Officer of Mergeco shall be Brian Wilkie of Mergeco and may be a director of Mergeco.

ARTICLE 3
THE CLOSING

3.1 Closing

Subject to the terms and conditions of this Agreement, the Closing of the Amalgamation shall take place at the Closing Time on the Closing Date at the Toronto offices of Borden Ladner Gervais LLP or such other place as the parties agree in writing.

3.2 NF Holdco and NFHI Closing Deliveries

At Closing, NF Holdco shall deliver, or cause to be delivered, to PW Holdco the following:

(a) the share certificates representing all of the issued and outstanding shares of NFHI;

(b) the opinion of counsel contemplated by Section 4.1(1)(e);

(c) copies of any and all NFHI Third Party Consents required to be obtained by NF Holdco or NFHI with respect to the Amalgamation;

(d) a certificate of a senior officer of NF Holdco dated as of the Closing Date certifying that NF Holdco and NFHI have complied in all Material respects with the covenants and agreements contained in this Agreement which are required to be performed and complied with by each of them on or prior to the Closing;

(e) a copy of the by-law, resolution or other authorizing instrument duly passed by the Niagara Falls municipal Council, certified by a municipal officer of Niagara Falls, authorizing the execution, delivery and performance of the Municipal Agreement and the New Niagara Falls Shareholder Declaration and approving the Amalgamation;

(f) copies of the corporate resolutions of NF Holdco and NFHI, certified by a director or senior officer of NF Holdco and NFHI, respectively, authorizing the execution, delivery and performance of this Agreement and all other agreements and instruments to be executed and delivered by NF Holdco or NFHI in connection with this Agreement and completion of the Amalgamation;

(g) a certificate of status for each of NF Holdco and NFHI;

(h) a certificate of incumbency for each of NF Holdco and NFHI;

(i) a copy of the Mergeco Shareholders Agreement executed by NF Holdco;

(j) a copy of the New Niagara Falls Shareholder Declaration, effective as at the Amalgamation Effective Date, executed by Niagara Falls; and

(k) such other documentation as PW Holdco may reasonably request in order to effect the completion of the Amalgamation and the taking of all corporate proceedings in connection with the Amalgamation, in each case in form and substance satisfactory to PW Holdco acting reasonably.

3.3 PW Holdco and PWUL Closing Deliveries

At Closing, PW Holdco shall deliver, or cause to be delivered, to NF Holdco the following:

(a) the share certificates evidencing all of the issued and outstanding shares of PWUL;

(b) the opinion of counsel contemplated by Section 4.1(1)(e);

(c) copies of any and all PWUL Third Party Consents required to be obtained by PW Holdco or PWUL with respect to the Amalgamation;

(d) a certificate of a senior officer of PW Holdco dated as of the Closing Date certifying that PW Holdco and PWUL have complied in all Material respects with the covenants and agreements contained in this Agreement which are required to be performed and complied with by each of them on or prior to the Closing;

(e) in accordance with the terms of the Penwest Shareholders' Agreement, a copy of the by-law, resolution or other authorizing instrument duly passed by the municipal councils of each of Lincoln and Pelham representing at least 66 2/3% of the outstanding shares of PW Holdco and certified by a municipal officer of each of Lincoln and Pelham, authorizing the execution, delivery and performance of this Agreement by PW Holdco, the Municipal Agreement by Lincoln and Pelham, the New Penwest Shareholders'Agreement by Lincoln and Pelham and approving the Amalgamation;

(f) copies of the corporate resolutions of PW Holdco and PWUL, certified by a director or senior officer of PW Holdco and PWUL, respectively, authorizing the execution, delivery and performance of this Agreement and all other agreements and instruments to be executed and delivered by PW Holdco or PWUL in connection with this Agreement and completion of the Amalgamation;

(g) a certificate of status for each of PW Holdco and PWUL;

(h) a certificate of incumbency for each of PW Holdco and PWUL;

(i) a copy of the Mergeco Shareholders Agreement executed by PW Holdco;

(j) a copy of the New Penwest Shareholders Agreement, effective as at the Amalgamation Effective Date, executed and approved in accordance with the terms of the Penwest Shareholders' Agreement; and

(k) such other documentation as NF Holdco may reasonably request in order to effect the completion of the Amalgamation and the taking of all corporate proceedings in connection with the Amalgamation, in each case in form and substance satisfactory to NF Holdco, acting reasonably.

ARTICLE 4
CONDITIONS OF CLOSING

4.1 Conditions in Favour of NF Holdco

(1) NF Holdco shall be obliged to complete the Amalgamation only if each of the following conditions precedent has been satisfied in full at or before the Closing Time (each of which conditions precedent is acknowledged to be for the exclusive benefit of NF Holdco):

(a) all of the representations and warranties of PW Holdco made in or pursuant to this Agreement shall be true and correct as at the Closing Time with the same effect as if made at and as of the Closing Time (except as those representations and warranties may be affected by events or transactions (i) expressly permitted by this Agreement, or (ii) approved in writing by NF Holdco);

(b) Lincoln, Pelham, PW Holdco and PWUL shall have complied with and performed all of the obligations, covenants and agreements under this Agreement and the Municipal Agreement to be complied with or performed by Lincoln, Pelham, PW Holdco and PWUL or any of them at or before the Closing Time, including the Closing deliveries specified in Section 3.3;

(c) Niagara Falls shall have approved the Amalgamation and such approval shall be in full force and effect;

(d) all NFHI Third Party Consents described in Schedule 5.2(37) shall have been obtained, in each case in form and substance satisfactory to NF Holdco, acting reasonably;

(e) NF Holdco shall have received a favourable opinion from legal counsel to PW Holdco and PWUL dated the Closing Date, and satisfactory in form and substance to NF Holdco, acting reasonably, as to the due authorization, execution, delivery and enforceability of this Agreement, the Mergeco Shareholders Agreement, the Amalgamation Agreement and as to the Amalgamation;

(f) all documentation relating to the Amalgamation is satisfactory to NF Holdco**,** acting reasonably; and

(g) except as contemplated by this Agreement, there shall have been no Material Adverse Change in respect of NFHI or PWUL since the date of this Agreement.

(2) If any of the conditions in Section 4.1(1) shall not be satisfied or fulfilled in full at or before the Closing Time to the satisfaction of NF Holdco, acting reasonably, NF Holdco in its sole discretion may, without limiting any rights or remedies available to NF Holdco at law or in equity, either:

(a) terminate this Agreement by notice in writing to PW Holdco, except with respect to the obligations contained in Sections 6.3(5) and 6.3(6) which shall survive that termination; or

(b) waive compliance with any such condition in whole or in part by notice in writing to PW Holdco, except that no such waiver shall operate as a waiver of any other condition.

4.2 Conditions in Favour of PW Holdco

(1) PW Holdco shall be obliged to complete the Amalgamation only if each of the following conditions precedent has been satisfied in full at or before the Closing Time (each of which conditions precedent is acknowledged to be for the exclusive benefit of PW Holdco):

(a) all of the representations and warranties of NF Holdco made in or pursuant to this Agreement shall be true and correct as at the Closing Time with the same effect as if made at and as of the Closing Time (except as those representations and warranties may be affected by events or transactions (i) expressly permitted by this Agreement, or (ii) approved in writing by PW Holdco);

(b) each of Niagara Falls, NF Holdco and NFHI shall have complied with and performed all of the obligations, covenants and agreements under this Agreement and the Municipal Agreement to be complied with or performed by Niagara Falls, NF Holdco and NFHI or any of them at or before the Closing Time, including the Closing deliveries specified in Section 3.2;

(c) Lincoln and Pelham shall have approved the Amalgamation in accordance with the terms of the Penwest Shareholders' Agreement and such approval shall be in full force and effect;

(d) all PWUL Third Party Consents described in Schedule 5.4(37) shall have been obtained, in each case in form and substance satisfactory to PW Holdco, acting reasonably;

(e) PW Holdco shall have received a favourable opinion from legal counsel to NF Holdco and NFHI dated the Closing Date, and satisfactory in form and substance

to PW Holdco, acting reasonably, as to the due authorization, execution, delivery, and enforceability of this Agreement, the Shareholders Agreement, the Amalgamation Agreement and as to the Amalgamation;

(f) all documentation relating to the Amalgamation is satisfactory to PW Holdco**,** acting reasonably;

(g) except as contemplated by this Agreement, there shall have been no Material Adverse Change in respect of NFHI or PWUL since the date of this Agreement.

(2) If any of the conditions in Section 4.2(1) shall not be satisfied or fulfilled in full at or before the Closing Time to the satisfaction of PW Holdco, acting reasonably**,** PW Holdco in its sole discretion may, without limiting any rights or remedies available to PW Holdco at law or in equity, either:

(a) terminate this Agreement by notice in writing to NF Holdco, except with respect to the obligations contained in Sections 6.3(5) and 6.3(6) which shall survive that termination; or

(b) waive compliance with any such condition in whole or in part by notice in writing to NF Holdco, except that no such waiver shall operate as a waiver of any other condition.

4.3 Mutual Conditions

(1) The obligations of each of the Parties to complete the Amalgamation shall be subject to the fulfilment of all of the following conditions on or before the Closing Date:

(a) there shall be no injunction or restraining order issued preventing, and no pending or threatened Claim, against any Party, for the purpose of enjoining or preventing the completion of the Amalgamation or otherwise claiming that this Agreement or the completion of the Amalgamation is improper or would give rise to a Claim under any Applicable Law;

(b) no Applicable Law shall have been enacted, introduced or announced which prohibits the Amalgamation or has a Material Adverse Effect in respect of the Parties or will have a Material Adverse Effect in respect of Mergeco after the Amalgamation;

(c) the OEB shall have approved the Amalgamation in accordance with the MAAD Application provided that no terms or conditions required by the OEB in connection therewith shall have a Material Adverse Effect on either NFHI or PWUL or Mergeco;

(d) no Transfer Tax or special payment under Part VI of the Electricity Act as a result of the Amalgamation is payable by a Party; and

(e) Mergeco will, immediately following the Amalgamation, be exempt under Section 149(1) of the Tax Act and Section 57(1) of the *Corporations Tax Act* (Ontario) from the payment of Tax under these statutes.

4.4 Termination

(1) This Agreement may be terminated at any time prior to Closing by mutual written consent of the Parties.

(2) This Agreement may be terminated by NF Holdco or PW Holdco by written notice to the other Party if the Closing contemplated by this Agreement shall have not occurred on or before December 31, 2007 or such later date as may be mutually agreed by the Parties in writing and thereupon the Parties shall be released from all obligations then remaining under this Agreement, other than the obligations contained in Sections 6.3(5) and 6.3(6), provided that the right to terminate this Agreement under this Section 4.4(2) shall not be available to a Party if the acts or omissions of that Party or any of its Affiliates have been the cause of, or result in, the failure of the Closing to occur on or before such date.

(3) If any condition in Section 4.1 or 4.3 is not materially satisfied on or before the Closing Date, NF Holdco may, by notice to PW Holdco, terminate this Agreement and thereupon the Parties shall be released from all obligations then remaining under this Agreement, other than the obligations contained in Sections 6.3(5) and 6.3(6), provided that NF Holdco may also bring a Direct Claim against PW Holdco in accordance with Article 7 for Indemnifiable Losses asserted against or suffered by NF Holdco and NFHI, or either of them, as a result of the failure to Close the Amalgamation, where the non-performance or non-conformance of the relevant condition is as a result of a breach of covenant, representation or warranty by PW Holdco or PWUL, or either of them.

(4) If any condition in Section 4.2 or 4.3 is not materially satisfied on or before the Closing Date, PW Holdco may, by notice to NF Holdco, terminate this Agreement and thereupon the Parties shall be released from all obligations then remaining under this Agreement, other than the obligations contained in Sections 6.3(5) and 6.3(6), provided that PW Holdco may also bring a Direct Claim against NF Holdco in accordance with Article 7 for Indemnifiable Losses asserted against or suffered by PW Holdco and PWUL, or either of them, as a result of the failure to close the Amalgamation, where the non-performance or non-conformance of the relevant condition is as a result of a breach of covenant, representation or warranty by NF Holdco or NFHI, or either of them.

ARTICLE 5
REPRESENTATIONS AND WARRANTIES

5.1 Representations and Warranties Relating to NF Holdco

NF Holdco hereby represents and warrants to PW Holdco as to itself as follows and acknowledges that PW Holdco is relying on these representations and warranties in connection with this Agreement and the Amalgamation:

(1) Organization and Status. It is a corporation duly incorporated and organized, and is validly subsisting, under the laws of Ontario.

(2) Corporate Power. It has all necessary corporate power and authority to own or lease or dispose of its undertakings, property and assets, to enter into this Agreement, the Amalgamation Agreement and the Mergeco Shareholders Agreement and the Contracts, required by this Agreement to be delivered by it, and to perform its obligations hereunder and thereunder.

(3) Authorization. All necessary corporate action has been taken by it or on its part to authorize its execution and delivery of this Agreement and the Contracts required by this Agreement to be delivered by it and the performance of its obligations hereunder and thereunder.

(4) Enforceability. This Agreement has been duly executed and delivered by it and (assuming due execution and delivery by the other Parties) is a legal, valid and binding obligation of it enforceable against it in accordance with its terms, except as that enforcement may be limited by bankruptcy, insolvency and other similar laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction. The Amalgamation Agreement, Mergeco Shareholders Agreement and each of the Contracts required by this Agreement to be delivered by it will at the Closing Time have been duly executed and delivered by it and (assuming due execution and delivery by the other parties thereto) will be enforceable against it in accordance with its terms, except as that enforcement may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction.

(5) Bankruptcy. It is not an insolvent Person within the meaning of the *Bankruptcy and Insolvency Act* (Canada) and has not made an assignment in favour of its creditors or a proposal in bankruptcy to its creditors or any class thereof, and no petition for a receiving order has been presented in respect of it. It has not initiated proceedings with respect to a compromise or arrangement with its creditors or for its winding up, liquidation or dissolution. No receiver or interim receiver has been appointed in respect of it or any of its undertakings, property or assets and no execution or distress has been levied on any of its undertakings, property or assets, nor have any proceedings been commenced in connection with any of the foregoing.

(6) Absence of Conflict. To the Knowledge of PW Holdco, the execution, delivery and performance by it of this Agreement, the Amalgamation Agreement and the Mergeco Shareholders Agreement and the completion of the Amalgamation will not (whether after the passage of time or notice or both), result in:

(a) the Material breach or violation of any of the provisions of, or constitute a default under, or conflict with or cause the acceleration of any of its obligations, under:

(i) any Contract to which it is a party or by which any of its undertakings, property or assets is bound or affected;

(ii) any provision of its Constating Documents or resolutions of its board of directors (or any committee thereof) or shareholder;

(iii) to the Knowledge of NF Holdco, any resolution of Niagara Falls municipal Council; or

(iv) any Applicable Law;

(b) the requirement of any Third Party Consents from any of its creditors.

(7) Litigation. There are no Claims (whether or not purportedly on its behalf) pending or outstanding or, to its Knowledge, other than as set out in Schedule 5.1(7), threatened against it which could affect its ability to perform its obligations under this Agreement. To the Knowledge of NF Holdco, other than as set out in Schedule 5.1(7), there is not any factual or legal basis on which any Claim which would affect its ability to complete its obligations under this Agreement might be commenced with any reasonable likelihood of success.

(8) Residence. It is not a non-resident of Canada for purposes of the Tax Act.

5.2 Representations and Warranties of NF Holdco Relating to NFHI

NF Holdco represents and warrants to PW Holdco as follows and acknowledges that PW Holdco is relying on these representations and warranties in connection with this Agreement and the Amalgamation:

(1) Organization and Status. NFHI is duly incorporated and organized, and is validly subsisting, under the laws of Ontario.

(2) Corporate Power. NFHI has all necessary corporate power and authority to own or lease its assets and to carry on the NFHI Business as now being conducted by it.

(3) Authorized and Issued Capital. The authorized capital of NFHI consists of an unlimited number of common shares of which one hundred (100) common shares are duly issued and outstanding as fully paid and non-assessable. NF Holdco is the registered and beneficial owner of all of the one hundred (100) issued and outstanding common shares of NFHI with good and marketable title thereto, free and clear of all Encumbrances. Without limiting the generality of the foregoing, none of the common shares of NFHI is subject to any voting trust, shareholder agreement or voting agreement other than the Niagara Falls Shareholder Declaration.

(4) No Options. Except as set out in Schedule 5.2(4), no Person has any agreement, option, understanding or commitment, or any right or privilege (whether by law, pre-emptive or contractual) capable of becoming an agreement, option or commitment, including convertible securities, warranties or convertible obligations of any nature, for:

(a) the purchase, subscription, allotment or issuance of, or conversion into, any of the unissued shares in the capital of NFHI;

(b) the purchase, transfer or assignment of the one hundred (100) common shares of NFHI owned by NF Holdco;

(c) the purchase or other acquisition from NFHI of any of its undertaking, property or assets or related to or used in connection with the NFHI Business, other than in the Ordinary Course of the NFHI Business.

(5) Subsidiaries. NFHI does not own and does not have any agreements of any nature to acquire, directly or indirectly, any shares in the capital of or other equity or proprietary interests in any Person.

(6) Absence of Conflict. To the Knowledge of NF Holdco, the execution, delivery and performance of this Agreement, the Mergeco Shareholders Agreement and the Amalgamation Agreement by NFHI and the completion of the Amalgamation will not (whether after the passage of time or notice or both), result in:

(a) the Material breach or violation of any of the provisions of, or constitute a default under, or conflict with or cause the acceleration of any of its obligations, under:

(i) any Contract to which NFHI is a party or by which the NFHI Business or any of NFHI's assets is bound or affected;

(ii) any provision of the Constating Documents or resolutions of the board of directors (or any committee thereof) or shareholders of NFHI;

(iii) any judgement, decree, order or award of any Governmental Authority having jurisdiction over NFHI;

(iv) any Third Party Consents issued to or held by, NFHI or held for the benefit of or necessary to the operation of, NFHI or the NFHI Business; or

(v) any Applicable Law;

(b) the creation or imposition of any Encumbrance over any of the assets of NFHI; or

(c) the requirement of any Third Party Consents.

(7) Conduct of Business. To the Knowledge of NF Holdco, except as disclosed in Schedule 5.2 (7) and elsewhere in this Agreement, NFHI has in all Material respects complied with, and has conducted and is conducting the NFHI Business in compliance with, all Applicable Laws. The NFHI Business is the only business operation carried on by NFHI and the assets of NFHI are sufficient to permit the continued operation of the NFHI Business in substantially the same manner as conducted in the one year preceding the date of this Agreement. During the two (2) year period preceding the date of this Agreement, there has not been any Material interruption of operations (being an

interruption of more than one (1) day) of the NFHI Business due to inadequate maintenance of any of the assets of NFHI.

(8) Bankruptcy. NFHI is not an insolvent Person within the meaning of the *Bankruptcy and Insolvency Act* (Canada) and has not made an assignment in favour of its creditors or a proposal in bankruptcy to its creditors or any class thereof, and no petition for a receiving order has been presented in respect of it. NFHI has not initiated proceedings with respect to a compromise or arrangement with its creditors or for its winding up, liquidation or dissolution. No receiver or interim receiver has been appointed in respect of NFHI or any of the assets of NFHI and no execution or distress has been levied on any of the assets of NFHI, nor have proceedings been commenced in connection with any of the foregoing.

(9) Location of Real Property. Schedule 5.2(9) is a true, accurate and complete list of all real property owned by NFHI that is the site of either an office building, maintenance or storage facility or transmission sub-station operated by NFHI and the sites are used for no other purposes.

(10) Real Property Leases. Schedule 5.2(10) is a true, accurate and complete list of all leases and agreements in the nature of a lease (including all renewals, assignments and subleases and agreements to lease in respect of any real property or Appurtenances to which NFHI is a party (the **"NFHI Real Property Leases"**), whether as lessor or lessee. Schedule 5.2(10) sets out, in respect of each NFHI Real Property Lease, the parties thereto, its dates of execution and expiry, any options to renew, the locations of the leased lands and premises and the rent payable. NFHI is not a party to, and has not agreed to enter into, any lease or agreement in the nature of a lease in respect of any real property or Appurtenances, whether as lessor or lessee, other than the NFHI Real Property Leases. True, accurate and complete copies of all NFHI Real Property Leases have been made available to PW Holdco for review, or where those NFHI Real Property Leases are oral, true, accurate and complete summaries of their terms, have been made available for review by PW Holdco and all such NFHI Real Property Leases are valid and enforceable in accordance with their terms and NFHI is not in breach of any Material covenant or terms thereof, and is not aware of any default or breach by any other party thereto.

(11) Title to NFHI Real Property and Leased Property Matters. NFHI has the exclusive right to possess, use and occupy, and has good and marketable title in fee simple to all the NFHI Real Property, free and clear of all Encumbrances or other restrictions of any kind other than the Permitted Encumbrances. Schedule 5.2(10) sets out the particulars of the NFHI Leased Property. All leases for the NFHI Leased Property will be available for review by PW Holdco. Except as described in Schedule 5.2(10), NFHI has the exclusive right to use and occupy the NFHI Leased Property. To the Knowledge of NF Holdco, all Appurtenances situated on the NFHI Real Property or the NFHI Leased Property are, in all Material respects in good operating condition and in a state of good maintenance and repair, are adequate and suitable for the purposes for which they are currently being used and NFHI has adequate rights of ingress and egress for the operation of the NFHI Business in the Ordinary Course in all Material respects. To the Knowledge of NF Holdco, none of those Appurtenances (or any equipment therein), nor the operation or maintenance thereof, violates any restrictive covenant or any provision of any Applicable

Law, or encroaches on any property owned by others in such a manner as would reasonably be expected to have a Material Adverse Effect. Without limiting the generality of the foregoing:

(a) to the Knowledge of NF Holdco, the NFHI Real Property, the NFHI Leased Property, the current uses of and the conduct of the NFHI Business on those properties comply in all Material respects with all Applicable Laws including those dealing with zoning, parking, access, loading facilities, landscaped areas, building construction, fire and public health and safety and Environmental Law;

(b) to the Knowledge of NF Holdco, other than in the Ordinary Course, no alteration, repair, improvement or other work has been ordered, directed or requested in writing to be done or performed to or in respect of the NFHI Real Property, the NFHI Leased Property or to any of the plumbing, heating, elevating, water, drainage or electrical systems, fixtures or works by any Governmental Authority, which alteration, repair, improvement or other work has not been completed in all Material respects, and to the Knowledge of NF Holdco, no written notification has been given to NFHI of any such outstanding work being ordered, directed or requested, other than those that have been complied with in all Material respects;

(c) to the Knowledge of NF Holdco, all accounts for work and services performed and materials placed or furnished on or in respect of the NFHI Real Property or the NFHI Leased Property at the request of NFHI have been fully paid and satisfied in all Material respects, and no Person is entitled to claim a lien against the NFHI Real Property, the NFHI Leased Property or any part thereof, other than current accounts in respect of which the payment due date has not yet passed;

(d) to the Knowledge of NF Holdco, there are no amounts owing in respect of the NFHI Real Property or the NFHI Leased Property by NFHI to any municipal corporation or to any other corporation or commission owning or operating a utility for water, gas, steam or hot water, or for the use thereof, other than current accounts in respect of which the payment due date has not yet passed;

(e) to the Knowledge of NF Holdco, no part of the NFHI Real Property or the NFHI Leased Property has been taken or expropriated by any competent Governmental Authority nor has any notice or proceeding in respect thereof been given or commenced;

(f) to the Knowledge of NF Holdco, except for the Encumbrances listed in Schedule 5.2(11)(f) (the **"NFHI Real Property Encumbrances"**) there are no Encumbrances with a principal amount of $250,000 or more affecting the NFHI Real Property or the NFHI Leased Property;

(g) to the Knowledge of NF Holdco, each of the NFHI Real Property and the NFHI Leased Property (including all Appurtenances) is free of Material defects (patent or latent) and is fit for its present use, and there are no material or structural repairs or replacements that are necessary or advisable and, without limiting the

foregoing, there are no repairs to, or replacements of, the roof or the mechanical, electrical, heating, ventilating, air-conditioning, plumbing or drainage equipment or systems that are necessary or advisable, and none of the NFHI Real Property or the NFHI Leased Property is currently undergoing any Material alteration or renovation nor is any such alteration or renovation contemplated; and

(h) to the Knowledge of NF Holdco, each of the NFHI Real Property and NFHI Leased Property is fully serviced and has suitable access to public roads, and there are no outstanding levies, charges or fees assessed against the NFHI Real Property or the NFHI Leased Property by any public authority (including development or improvement levies, charges or fees).

(12) Personal Property. To the Knowledge of NF Holdco, NFHI either owns or has rights to use, all of the personal property currently used in the NFHI Business, free and clear of all Encumbrances, other than Permitted Encumbrances and the Encumbrances listed in Schedule 5.2(12) (the "NFHI Personal Property Encumbrances) which are all of the Encumbrances with a principle amount of $50,000 or more that effect the personal property of NFHI.

(13) Personal Property Leases. The NFHI Equipment Leases described in Schedule 5.2(13) are all of the leases of personal property used in the NFHI Business. NFHI is entitled to all rights and benefits as lessee under the NFHI Equipment Leases, and NFHI has not sublet, assigned, licensed or otherwise conveyed any rights in those NFHI Equipment Leases or in the property leased thereunder to any other Person. All payments and other obligations required to be paid and performed by NFHI under the NFHI Equipment Leases have been duly paid and performed. NFHI is not in Material default of any of its obligations under the NFHI Equipment Leases; and, none of the lessors of the NFHI Equipment Leases is in Material default of any of its obligations thereunder.

(14) Accounts Receivable. All Accounts Receivable of NFHI are, in all Material respects, *bona fide* and good and have been incurred in the Ordinary Course and subject to an allowance for doubtful accounts that has been reflected on the books of NFHI in accordance with GAAP, all Accounts Receivable are collectible in the Ordinary Course.

(15) Intellectual Property.

(a) To the Knowledge of NF Holdco, NFHI either owns the right, title and interest in, to and under, or has acquired a licence to use in respect of the NFHI Business, any and all Intellectual Property that is used in the conduct of the NFHI Business in the manner that the NFHI Business has heretofore been conducted.

(b) To the Knowledge of NF Holdco, there is no Material infringement or breach of any industrial or intellectual property rights of any other Person by NFHI, and NFHI has not received any notice that the conduct of the NFHI Business, including the use of the Intellectual Property, infringes on or breaches any industrial or intellectual property rights of any other Person and NF Holdco does not have any Knowledge of any infringement or violation of any of their rights or

the rights of NFHI in the Intellectual Property. To the Knowledge of NF Holdco, the conduct of the NFHI Business does not, in any Material respect, infringe on the patents, trade marks, licences, trade names, business names, copyright or other industrial or intellectual property rights, domestic or foreign, of any other Person.

(c) To the Knowledge of NF Holdco, NFHI has not received any notice of any adverse claim, litigation or assertion of infringement, invalidity or unenforceability in respect of the Intellectual Property that is used in the conduct of the NFHI Business and NFHI is not a party to any litigation alleging that the conduct of the NFHI Business, as now carried on by NFHI, infringes upon or breaches the rights of any other Person in Intellectual Property which would reasonably be expected to have a Materially Adverse Effect.

(16) Insurance. The assets of NFHI are covered by fire and other insurance with responsible insurers against such risks and in such amounts as are reasonable for prudent owners of comparable assets. Schedule 5.2(16) sets out true, accurate and complete particulars of all insurance policies maintained by NFHI (the **"NFHI Insurance Policies"**), specifying in each case, the name of the insurer, the risks insured against, the amount of the coverage, the policy number and any pending Claims in excess of an amount of $10,000 thereunder. No other insurance is necessary to the conduct of the NFHI Business or would be considered to be desirable by a prudent Person operating a business similar to the NFHI Business. NFHI is not in default, whether as to the payment of premiums or with respect to any other provision contained in any NFHI Insurance Policy and has not failed to give any notice or present any Claim under any NFHI Insurance Policy in a due and timely fashion. True, accurate and complete copies of all NFHI Insurance Policies set out in Schedule 5.2(16) will be available for review by PW Holdco.

(17) Expropriation and Public Improvements. To the Knowledge of NF Holdco, none of the real property owned, or other realty rights leased, used or occupied, by NFHI in connection with the NFHI Business is subject to any pending suit for expropriation, condemnation or other taking by any Governmental Authority, and no such expropriation, condemnation or other taking has been threatened. To the Knowledge of NF Holdco, no public improvements with respect to any real property owned, or other realty rights leased, used or occupied, by NFHI in connection with the NFHI Business have been ordered to be made by any Governmental Authority which have not been completed, assessed and paid for in all Material respects.

(18) Material Contracts and Other Contracts.

Schedule 5.2(18) sets out the particulars of each Material Contract to which NFHI is a party.

(a) Each Material Contract:

(i) constitutes a legal, valid, binding and enforceable obligation of NFHI and, to the Knowledge of NF Holdco, of the other parties thereto, in accordance with its terms; and

(ii) is in full force and effect, unamended.

(b) To the Knowledge of NF Holdco, there is not, under any of the Material Contracts, any default or event which, with notice or lapse of time or both, would constitute a Material default on the part of NFHI, or, to the Knowledge of NF Holdco, any of the other parties thereto, or permit the other parties thereto to terminate, cancel or accelerate such Material Contract, whether on notice or otherwise except such events of default and other events:

(i) as to which requisite waivers or consents have been obtained; or

(ii) which would not individually or in the aggregate, be reasonably expected to have a Material Adverse Effect.

(c) True and complete copies of all of the Material Contracts have been made available for review to PW Holdco.

(19) Government Filings. To the Knowledge of NF Holdco, NFHI has filed or caused to be filed with all Governmental Authorities all forms, statements, reports and documents (including all exhibits, amendments and supplements thereto) required to be filed by NFHI with respect to the NFHI Business under Applicable Law (collectively, the **"Government Filings"**) except where the failure to do so would not be reasonably expected to have a Material Adverse Effect. All of the Government Filings of NFHI complied in all Material respects with all Applicable Laws in effect on the date each Government Filings was filed, and there are no material misstatements or omissions relating to the NFHI Business in the Government Filings of NFHI.

(20) Permits.

(a) To the Knowledge of NF Holdco, NFHI has all Permits (collectively, the **"NFHI Permits"**), that are required by Applicable Law in connection with the NFHI Business, except for those NFHI Permits, the failure of which to obtain would not, individually or in the aggregate, have a Material Adverse Effect. To the Knowledge of NF Holdco, NFHI has not received any written notification that it is in violation of any such NFHI Permits except for notifications of violations which would not, individually or in the aggregate, have a Material Adverse Effect. To the Knowledge of NF Holdco, NFHI is in compliance with all NFHI Permits and Applicable Law in respect of the NFHI Business, except for violations which would not, individually or in the aggregate, result in a Material Adverse Effect.

(b) Schedule 5.2(20) sets forth a list of all Material NFHI Permits (other than the NFHI Environmental Permits) applicable to the NFHI Business.

(21) Financial Statements. The NFHI 2005 Financial Statements have been prepared in accordance with GAAP consistently applied throughout the periods indicated and fairly, completely and in all Material respects present the assets, liabilities (whether accrued, absolute, contingent or otherwise) and financial condition of NFHI as at the respective

dates indicated and the sales, earnings and results of operations of NFHI throughout the periods indicated.

(22) Books and Records. To the Knowledge of NF Holdco, the Books and Records of NFHI fairly present and disclose the financial position of NFHI as at the date of this Agreement and all financial transactions of NFHI have in all Material respects been accurately recorded in the Books and Records. The system of internal accounting controls is sufficient to provide reasonable assurances that transactions are executed in accordance with management's general or specific authorization and that transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain accountability for assets.

(23) Corporate Records. To the Knowledge of NF Holdco, the corporate records, including the minute books, of NFHI contain, in all Material respects, true, accurate and complete records of all of its Constating Documents and of every meeting, resolution and corporate action taken by the shareholders, the board of directors and every committee of either of them. No meeting of shareholders, the board of directors or any committee of either of them has been held for which minutes have not been prepared and are not contained in those minute books. The share certificate book, register of shareholders, register of directors and officers, securities register and register of transfer of NFHI are true, accurate and complete in all Material respects. All such records will be made available for review to PWUL.

(24) Undisclosed Liabilities. NFHI has no liabilities, obligations, indebtedness or commitments, whether accrued, absolute, contingent or otherwise, and is not a party to or bound by any agreement of guarantee, support, indemnification, assumption or endorsement of, or any other similar commitment with respect to the liabilities, obligations, indebtedness or commitments (whether accrued, absolute, contingent or otherwise) of any Person, that are not disclosed in the NFHI 2005 Financial Statements or disclosed in the Schedules to this Agreement, other than liabilities, obligations, indebtedness and commitments in respect of trade or business obligations incurred after the date of the NFHI 2005 Financial Statements in the Ordinary Course, that in the aggregate and would not reasonably be expected to have a Materially Adverse Effect on NFHI.

(25) Absence of Changes. Except as disclosed in the NFHI 2005 Financial Statements, since December 31, 2005, to the Knowledge of NF Holdco there has not been any:

(a) change in the financial affairs, business, assets, liabilities, financial condition, operations or prospects of NFHI or in the condition of the NFHI Business which would constitute a Material Adverse Effect; or

(b) damage, destruction or casualty loss, investigation by a Governmental Authority, or any other event, development or condition of any character, whether or not covered by insurance, in respect of NFHI or the NFHI Business, which individually or in the aggregate, has or would reasonably be expected to have a Material Adverse Effect.

(26) Absence of Unusual Transactions. Except as described in Schedule 5.2(26) and elsewhere in this Agreement, since December 31, 2005, NFHI has not:

(a) transferred, assigned, sold or otherwise disposed of any of its assets or cancelled any debts or entitlements except, in each case, in the Ordinary Course of the NFHI Business;

(b) incurred or assumed any obligation or liability (fixed or contingent), except unsecured current obligations and liabilities incurred in the Ordinary Course of NFHI Business;

(c) suffered an operating loss or any extraordinary loss, waived or omitted to take any action in respect of any rights, or entered into any commitment or transaction, except in the Ordinary Course of the NFHI Business;

(d) granted any bonuses, whether monetary or otherwise, or made any general wage or salary or perquisites increases in respect of its officers, directors or NFHI Employees, other than as provided for in the NFHI Collective Agreement, or changed the terms of employment for any officer or NFHI Employee, except in the Ordinary Course of the NFHI Business and consistent with past practice; or

(e) Encumbered any of its assets or property whether tangible or intangible except in the Ordinary Course of the NFHI Business or pursuant to Permitted Encumbrances.

(27) Taxes.

(a) Each of NF Holdco and NFHI is exempt from tax under the Tax Act and the *Corporations Tax Act* (Ontario).

(b) NFHI has filed in the prescribed manner all Tax Returns required to be filed by it in all applicable jurisdictions before the Closing Date. All such Tax Returns are complete and correct and disclose all Taxes required to be paid for the periods covered thereby. NFHI has never been required to file any Tax Returns with, and has never been liable to pay or remit Taxes to, any Governmental Authority outside Canada. NFHI has paid all Taxes and all instalments of Taxes due on or before the Closing Date.

(c) There are no audits, assessments, reassessments or other Claims in progress or, to the Knowledge of NF Holdco, threatened against NFHI, in respect of any Taxes and, in particular, there are no currently outstanding reassessments or written enquiries which have been issued or raised by any Governmental Authority relating to any such Taxes. NF Holdco is not aware of any contingent liability of NFHI for Taxes or any grounds that could prompt an assessment or reassessment for Taxes other than an assessment in respect of current Tax Returns for which no assessment has been received as at the date of this Agreement, and NFHI has not received any indication from any Governmental Authority that any assessment or reassessment is proposed.

(d) There are no agreements, waivers or other arrangements with any Governmental Authority providing for an extension of time with respect to the issuance of any assessment or reassessment, the filing of any Tax Return, or the payment of any Taxes by or in respect of NFHI. NFHI is not party to any agreements or undertakings with respect to Taxes.

(e) NFHI has withheld from each payment made or amount credited to any Person (including any of its present or former employees, officers and directors, and to all Persons who are non-residents of Canada for the purposes of the Tax Act) all amounts required by Applicable Law to be withheld, and furthermore, has remitted such withheld amounts within the prescribed periods to the appropriate Governmental Authority. NFHI has remitted all Canada Pension Plan contributions, employment insurance premiums, employer health Taxes and other Taxes payable by it in respect of NFHI Employees and has remitted such amounts to the proper Governmental Authority within the time required under Applicable Law.

(f) NFHI has charged, collected and remitted on a timely basis all Taxes as required under Applicable Law on any sale, supply, transfer or delivery whatsoever, made by it. For greater certainty, NFHI has, in the manner and within the time prescribed by the Electricity Act, notified the MOF of any transfer of "municipal electricity property" within the meaning of the Electricity Act and has ensured the payment of any Transfer Tax exigible in respect of such transfer.

(g) To the Knowledge of NF Holdco, NFHI has computed its liability for PILs, Transfer Tax or other special payments under Part VI of the Electricity Act in accordance with the Electricity Act and the regulations thereunder and has made on a timely basis all payments required to be made thereunder.

(28) Litigation. Except as described in Schedule 5.2(28), there are no Claims (whether or not purportedly on behalf of NFHI) pending or, to the Knowledge of NF Holdco, threatened against or affecting, NFHI or its assets. To the Knowledge of NF Holdco there is not any factual or legal basis on which any such Claim which would affect NFHI's ability to complete its obligations under this Agreement might be commenced with any reasonable likelihood of success.

(29) Non-Arm's Length Transactions. Except as described in Schedule 5.2(29), NFHI has not made any payment or loan to, or borrowed any moneys from or is otherwise indebted to, any officer, director, employee, shareholder or any other Person not dealing at arm's length with NFHI (within the meaning of the Tax Act), except as disclosed in the NFHI 2005 Financial Statements and except for usual employee reimbursements and compensation paid in the Ordinary Course. Except as described in Schedule 5.2(29), except for Contracts of employment and the NFHI Promissory Note, NFHI is not a party to any Contract with any officer, director, employee, shareholder or any other Person not dealing at arm's length with NFHI (within the meaning of the Tax Act).

(30) Environmental.

(a) Except as described in Schedule 5.2(30)(a), to the Knowledge of NF Holdco, NFHI has, in all Material respects, been and is in compliance with all Environmental Law.

(b) To the Knowledge of NF Holdco, NFHI has obtained all Material Environmental Permits required for the operation of the NFHI Business, all of which are described in Schedule 5.2(30)(b) (the **"NFHI Environmental Permits"**). To the Knowledge of NF Holdco, each NFHI Environmental Permit is valid, subsisting and in good standing and NFHI is not in default or breach of any NFHI Environmental Permit which default or breach would reasonably be expected to have a Material Adverse Effect and no proceeding is pending or threatened, to revoke or limit any NFHI Environmental Permit.

(c) To the Knowledge of NF Holdco, NFHI has not used or permitted to be used, except in Material compliance with all Environmental Law, any of its assets (including the NFHI Leased Property) or facilities or any property or facility that it has at any time owned, occupied, managed, or controlled or in which it has at any time had a legal or beneficial interest to generate, manufacture, process, distribute, use, treat, store, dispose of, transport or handle any Hazardous Substance.

(d) Save for the Victoria Street Property, to the Knowledge of NF Holdco, NFHI has never received any notice of, nor been prosecuted for an offence alleging non-compliance with any Environmental Law, and NFHI has not settled any allegation of non-compliance short of prosecution. Save for the Victoria Street Property, o the Knowledge of NF Holdco, there are no orders or directions relating to environmental matters requiring any work, repairs, construction or capital expenditures with respect to the NFHI Business or any of NFHI's assets, nor has NFHI received notice of any of such orders or directions.

(e) Save for the Victoria Street Property, NFHI has not caused or permitted, and NF Holdco does not have any Knowledge of, the Release, in any Material manner, of any Hazardous Substance on or from any of NFHI's assets or any property or facility that NFHI previously owned or leased, except in accordance with Environmental Law, or any such Release on or from a facility owned or operated by third parties but with respect to which NFHI is or may reasonably be alleged to have liability except in accordance with Environmental Law. Save for the Victoria Street Property, all Hazardous Substances and all other wastes and other materials and substances used in whole or in part by NFHI or resulting from the NFHI Business have, in all Material respects, been disposed of, treated and stored in compliance with all Environmental Law.

(f) Save for the Victoria Street Property, NFHI has not received any notice that it is potentially responsible for any clean-up or corrective action under any Environmental Law at any site. Save for the Victoria Street Property, NFHI has

not received any request for information in connection with any federal, provincial, municipal or local inquiries as to disposal sites.

(31) Employee Plans.

(a) Schedule 5.2(31) identifies each non-salary plan, program or arrangement including deferred compensation, bonus compensation, incentive or other compensation, share option or purchase, severance, termination pay, hospitalization or other medical benefit, life or other insurance, vision, dental, drug, sick leave, disability, salary continuation, vacation, supplemental unemployment benefits, profit sharing, mortgage assistance, pension or supplemental pension, retirement compensation, group registered retirement savings, deferred profit sharing, employee profit sharing, savings, retirement or supplemental retirement, and any other similar plan, program or arrangement, whether funded or unfunded, formal or informal, including OMERS, that is maintained, contributed to, or required to be maintained or contributed to, by NFHI, or to which NFHI is a party, or bound by, or under which, to the Knowledge of NF Holdco, NFHI has any liability or contingent liability for the benefit of directors, officers, shareholders, consultants, independent contractors and employees or former employees of NFHI and their dependents (the **"NFHI Employee Plans"**).

(b) OMERS is the only registered pension plan under which the NFHI Employees, or any of them, accrue pension benefits, or under which former NFHI Employees are entitled to payment of any pension benefits, and has been accepted for registration under the Tax Act and has been registered with the Superintendent of Financial Institutions under the *Pension Benefits Standards Act* (Canada).

(c) Each of the NFHI Employee Plans is, and has been, in all Material respects, established, registered, qualified, administered and invested in compliance with:

(i) the terms thereof;

(ii) all Applicable Laws;

(iii) the administrative practices of the applicable pension regulator and the CRA;

and NFHI has not received, in the last three years, any notice from any Person questioning or challenging that compliance, and NF Holdco does not have any Knowledge of any such notice from any Person questioning or challenging that compliance prior to the last three years.

(d) To the Knowledge of NF Holdco, all obligations due under the NFHI Employee Plans (whether pursuant to the terms thereof or any Applicable Law) have been satisfied, and there are no outstanding defaults or violations thereunder by NFHI nor does NF Holdco have any Knowledge of any default or violation by any other Person in respect of the Employee Plans.

(e) Except as disclosed in Schedule 5.2(31), there are no improvements, increases or changes to the benefits provided under the NFHI Employee Plans nor is there any pattern of *ad hoc* benefit increases and the NFHI Employee Plans do not provide for benefit increases or the acceleration of funding obligations that are contingent or will be triggered by the entering into of this Agreement or the completion of the Amalgamation.

(f) All employer and employee payments, contributions and premiums required to be remitted or paid to or in respect of the NFHI Employee Plans, including OMERS, have been remitted or paid, in a timely fashion to or in respect of the NFHI Employee Plans in accordance with the terms thereof and all Applicable Laws, and no Taxes, non-Tax related interest, penalties or fees are owing or exigible under any of the NFHI Employee Plans.

(g) There is no Claim by any applicable Governmental Authority, including the applicable pension regulator and the CRA, or by any Person (other than routine Claims for payment of benefits) pending or, to the Knowledge of NF Holdco, threatened in respect of any of the NFHI Employee Plans or their assets, and, to the Knowledge of NF Holdco, no facts exist which could reasonably be expected to give rise to any such Claim (other than routine Claims for benefits).

(h) To the Knowledge of NF Holdco, with respect to any NFHI Employee Plan which is registered under any Applicable Law, no event has occurred respecting that NFHI Employee Plan which would result in the revocation of that registration or entitle any Person (without the consent of NFHI) to wind-up or terminate that NFHI Employee Plan in whole or in part, or which could otherwise reasonably be expected to adversely affect the Tax-favoured status thereof.

(i) To the Knowledge of NF Holdco, NFHI has provided to the OMERS Board, on a timely basis, all information known to NFHI and requested from time to time by the OMERS Board in respect of the NFHI Employees, former NFHI Employees and their spouses and former spouses and which is necessary in order to enable the OMERS Board to properly administer OMERS in respect of them.

(j) No Material changes have occurred in respect of each of the NFHI Employee Plans since the date of its most recent financial, accounting, actuarial or other report, as applicable, filed with the pension regulator, the CRA and any other applicable Governmental Authority (where applicable) in connection with that NFHI Employee Plan, nor have there been any events occurring prior to the most recent financial, accounting, actuarial or other report which are not disclosed in that report which could reasonably be expected to adversely affect the relevant report (including rendering it misleading in any Material respect) or to have Materially affected the financial status of that NFHI Employee Plan.

(k) There has not been any withdrawal of, application for, or payment of, any surplus or other funds out of OMERS by any Person including NF Holdco and NFHI

except for payments made to departing employees in accordance with the terms of OMERS and the Applicable Laws.

(l) If NFHI has taken any contribution or premium holidays under OMERS, those holidays have been permitted by the applicable pension regulator, the Tax Act and all other Applicable Laws and have been permitted by the valid terms of OMERS.

(m) To the Knowledge of NF Holdco, each of the NFHI Employee Plans which purports to qualify as a particular type of plan under the Tax Act meets all requirements for that qualification in effect and has complied with the provisions of the Tax Act and the administrative practices of the CRA applicable to that plan.

(32) Employment Matters.

(a) Except for the NFHI Collective Agreement or as otherwise disclosed in Schedule 5.2(32), there are no Contracts in respect of NFHI for the employment or retainer of any NFHI Employee, including, for greater certainty, Contracts with directors, officers, employees, independent contractors or agents providing personal services, other than oral Contracts of indefinite hire terminable by NFHI without cause on reasonable notice.

(b) Except as disclosed in Schedule 5.2(32), NFHI is not a party to nor is it bound by any Contract in respect of any NFHI Employee providing for severance, termination or any other payments in connection with the Amalgamation.

(c) NFHI has provided PW Holdco with the total number of full and part-time employees of NFHI and the number of employees represented by the International Brotherhood of Electrical Workers ("IBEW") as well as the years of service and salary information of all NFHI Employees.

(33) Labour Matters. NFHI has made available to PW Holdco a true, complete and current copy of the NFHI Collective Agreement. In connection with NFHI labour matters:

(a) the NFHI Collective Agreement is the only Material Contract with unionized workers;

(b) NFHI is in Material compliance with all Employment Law applicable to NFHI;

(c) NFHI has not received notice of any unfair labour practice complaint or any other Employment Law complaint which is current or pending before any labour relations or similar board or any other body or tribunal in connection with the NFHI Business;

(d) there is no labour strike, slowdown or stoppage actually pending or, to the Knowledge of NF Holdco, threatened by any authorized representative of any union or other representative of employees affecting the NFHI Business;

(e) NFHI has not received notice that any application for certification or de-certification respecting the NFHI Employees has been filed with any labour relations or similar board; and

(f) no grievance or arbitration proceeding arising out of or under the NFHI Collective Agreement is pending against NFHI in respect of the NFHI Employees or otherwise affecting the NFHI Business which proceeding, if determined adversely to NFHI, would have a Material Adverse Effect.

(34) Personal Information Laws. To the Knowledge of NF Holdco, NFHI is in Material compliance with the requirements of all Applicable Laws relating to its collection, use and disclosure of Personal Information, including the establishment and observance of written policies and practices. No complaint relating to NFHI's alleged non-compliance with any such Applicable Law has been found by any Governmental Authority to be well-founded, no order or judgment has been made against NFHI by any Governmental Authority based on any finding of non-compliance with any such Applicable Law, and no unresolved complaint or other proceeding relating to any such alleged non-compliance is now pending by or before any Governmental Authority.

(35) No Joint Venture Interests, etc. Except as set out in Schedule 5.2(35), NFHI is not a partner, beneficiary, trustee, co-tenant, joint-venturer or otherwise a participant in any partnership, trust, joint venture, co-tenancy or similar jointly owned business undertaking.

(36) Condition of Assets. To the Knowledge of NF Holdco, except as would not result in a Material Adverse Effect, the Fixtures situated on the NFHI Real Property or used in connection with the NFHI Business are in good condition, repair and proper working order, having regard to their use and age and such assets have been properly and regularly maintained in accordance with Good Utility Practices.

(37) Third Party Consents. Except as described in Schedule 5.2(37) (the **"NFHI Third Party Consents"**), there are no Third Party Consents required to be obtained by NF Holdco or NFHI in order to complete the Amalgamation as contemplated by this Agreement.

(38) Residence. NFHI is not a non-resident of Canada for purposes of the Tax Act.

(39) Full Disclosure. Neither this Agreement or any other contract, agreement, instrument, certificate or other document required to be delivered by, or otherwise to be delivered, pursuant to this Agreement by NF Holdco or by NFHI nor any certificate, report, statement or other document furnished by NF Holdco or NFHI in connection with the negotiation of this Agreement contains or will contain any untrue statement of a Material fact or omits or will omit to state a Material fact necessary to make the statements contained herein or therein not misleading. To the Knowledge of NF Holdco, there has been no event, transaction or information that has come to the attention of NF Holdco or NFHI that has not been disclosed to PW Holdco in writing that could reasonably be expected to have a Material Adverse Effect.

5.3 Representations and Warranties Relating to PW Holdco

PW Holdco represents and warrants to NF Holdco as to itself as follows and acknowledges that NF Holdco is relying on these representations and warranties in connection with this Agreement and the Amalgamation:

(1) Organization and Status. PW Holdco is a corporation duly incorporated and organized, and is validly subsisting under, the laws of Ontario.

(2) Corporate Power. It has all necessary corporate power and authority to own or lease or dispose of its undertakings, property and assets, to enter into this Agreement, the Amalgamation Agreement and the Mergeco Shareholders Agreement and the contracts, agreements and instruments required by this Agreement to be delivered by it, and to perform its obligations hereunder and thereunder.

(3) Authorization. All necessary corporate action has been taken by it or on its part to authorize its execution and delivery of this Agreement and the Contracts required by this Agreement to be delivered by it and the performance of its obligations hereunder and thereunder.

(4) Enforceability. This Agreement has been duly executed and delivered by it and (assuming due execution and delivery by the other Parties) is a legal, valid and binding obligation of it enforceable against it in accordance with its terms, except as that enforcement may be limited by bankruptcy, insolvency and other similar laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction. The Amalgamation Agreement, Mergeco Shareholders Agreement and each of the Contracts required by this Agreement to be delivered by it will at the Closing Time have been duly executed and delivered by it and (assuming due execution and delivery by the other parties thereto) will be enforceable against it in accordance with its terms, except as that enforcement may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction.

(5) Bankruptcy. It is not an insolvent Person within the meaning of the *Bankruptcy and Insolvency Act* (Canada) and has made an assignment in favour of its creditors or a proposal in bankruptcy to its creditors or any class thereof, and no petition for a receiving order has been presented in respect of it. It has not initiated proceedings with respect to a compromise or arrangement with its creditors or for its winding up, liquidation or dissolution. No receiver or interim receiver has been appointed in respect of it or any of its undertakings, property or assets and no execution or distress has been levied on any of its undertakings, property or assets, nor have any proceedings been commenced in connection with any of the foregoing.

(6) Absence of Conflict. To the Knowledge of PW Holdco, the execution, delivery and performance by it of this Agreement, the Amalgamation Agreement and the Mergeco Shareholders Agreement and the completion of the Amalgamation will not (whether after the passage of time or notice or both), result in:

(a) the Material breach or violation of any of the provisions of, or constitute a default under, or conflict with or cause the acceleration of any of its obligations, under:

(i) any Contract to which it is a party or by which any of its undertakings, property or assets is bound or affected;

(ii) any provision of its Constating Documents or resolutions of its board of directors (or any committee thereof) or shareholder;

(iii) to the Knowledge of PW Holdco, any resolution of municipal Council for Pelham or Lincoln; or

(iv) any Applicable Law;

(b) the requirement of any Third Party Consents from any of its creditors.

(7) Litigation. There are no Claims (whether or not purportedly on its behalf) pending or outstanding or, to its Knowledge, other than as set out in Schedule 5.3(7), threatened against it which could affect its ability to perform its obligations under this Agreement. To the Knowledge of PW Holdco, other than as set out in Schedule 5.3(7), there is not any factual or legal basis on which any Claim which would affect its ability to complete its obligations under this Agreement might be commenced with any reasonable likelihood of success.

(8) Residence. It is not a non-resident of Canada for purposes of the Tax Act.

5.4 Representations and Warranties of PW Holdco Relating to PWUL

PW Holdco represents and warrants to NF Holdco as follows and acknowledges that NF Holdco is relying on these representations and warranties in connection with this Agreement and the Amalgamation:

(1) Organization and Status. PWUL is duly incorporated and organized, and is validly subsisting, under the laws of Ontario.

(2) Corporate Power. PWUL has all necessary corporate power and authority to own or lease its assets and to carry on the PWUL Business as now being conducted by it.

(3) Authorized and Issued Capital. The authorized capital of PWUL consists of an unlimited number of common shares of which one hundred (100) common shares are duly issued and outstanding as fully paid and non-assessable. PW Holdco is the registered and beneficial owner of all one hundred (100) issued and outstanding common shares of PWUL with good and marketable title thereto, free and clear of all Encumbrances.

Without limiting the generality of the foregoing, none of such common shares of PWUL is subject to any voting trust, shareholder agreement or voting agreement other than the Penwest Shareholders' Agreement.

(4) No Options. Except as set out in Schedule 5.4(4), no Person has any agreement, option, understanding or commitment, or any right or privilege (whether by law, pre-emptive or contractual) capable of becoming an agreement, option or commitment, including convertible securities, warranties or convertible obligations of any nature, for:

(a) the purchase, subscription, allotment or issuance of, or conversion into, any of the unissued shares in the capital of PWUL;

(b) the purchase, transfer or assignment of the one hundred (100) common shares of PWUL owned by PW Holdco;

(c) the purchase or other acquisition from PWUL of any of its undertaking, property or assets or related to or used in connection with the PWUL Business, other than in the Ordinary Course of the PWUL Business.

(5) Subsidiaries. PWUL does not own and does not have any agreements of any nature to acquire, directly or indirectly, any shares in the capital of or other equity or proprietary interests in any Person, and PWUL does not have any agreements to acquire or lease any other business operations.

(6) Absence of Conflict. To the Knowledge of PW Holdco, the execution, delivery and performance of this Agreement, the Mergeco Shareholders Agreement and the Amalgamation Agreement by PWUL and the completion of the Amalgamation will not (whether after the passage of time or notice or both), result in:

(a) the Material breach or violation of any of the provisions of, or constitute a default under, or conflict with or cause the acceleration of any of its obligations, under:

(i) any Contract to which PWUL is a party or by which the PWUL Business or any of PWUL's assets is bound or affected;

(ii) any provision of the Constating Documents or resolutions of the board of directors (or any committee thereof) or shareholders of PWUL;

(iii) any judgement, decree, order or award of any Governmental Authority having jurisdiction over PWUL;

(iv) any Third Party Consents issued to or held by, PWUL or held for the benefit of or necessary to the operation of, PWUL or the PWUL Business; or

(v) any Applicable Law;

(b) the creation or imposition of any Encumbrance over any of the assets of PWUL; or

(c) the requirement of any Third Party Consents.

(7) Conduct of Business. To the Knowledge of PW Holdco, except as disclosed in Schedule 5.4(7) and elsewhere in this Agreement, PWUL has in all Material respects complied with, and has conducted and is conducting the PWUL Business in compliance with, all Applicable Laws. The PWUL Business is the only business operation carried on by PWUL and the assets of PWUL are sufficient to permit the continued operation of the PWUL Business in substantially the same manner as conducted in the one year preceding the date of this Agreement. During the two (2) year period preceding the date of this Agreement, there has not been any Material interruption of operations (being an interruption of more than one (1) day) of the PWUL Business due to inadequate maintenance of any of the assets of PWUL.

(8) Bankruptcy. PWUL is not an insolvent Person within the meaning of the *Bankruptcy and Insolvency Act* (Canada) and has not made an assignment in favour of its creditors or a proposal in bankruptcy to its creditors or any class thereof, and no petition for a receiving order has been presented in respect of it. PWUL has not initiated proceedings with respect to a compromise or arrangement with its creditors or for its winding up, liquidation or dissolution. No receiver or interim receiver has been appointed in respect of PWUL or any of the assets of PWUL and no execution or distress has been levied on any of the assets of PWUL, nor have proceedings been commenced in connection with any of the foregoing.

(9) Location of Real Property. Schedule 5.4(9) is a true, accurate and complete list of all real property owned by PWUL that is the site of either an office building, maintenance or storage facility or transmission sub-station operated by PWUL and the sites are used for no other purposes.

(10) Real Property Leases. Schedule 5.4(10) is a true, accurate and complete list of all leases and agreements in the nature of a lease (including all renewals, assignments and subleases and agreements to lease in respect of any real property or Appurtenances to which PWUL is a party (the **"PWUL Real Property Leases"**), whether as lessor or lessee. Schedule 5.4(10) sets out, in respect of each PWUL Real Property Lease, the parties thereto, its dates of execution and expiry, any options to renew, the locations of the leased lands and premises and the rent payable. PWUL is not a party to, and has not agreed to enter into, any lease or agreement in the nature of a lease in respect of any real property or Appurtenances, whether as lessor or lessee, other than the PWUL Real Property Leases. True, accurate and complete copies of all PWUL Real Property Leases have been made available to NF Holdco, or where those PWUL Real Property Leases are oral, true, accurate and complete summaries of their terms, have been made available for review by NF Holdco and all such PWUL Real Property Leases are valid and enforceable in accordance with their terms and PWUL is not in breach of any Material covenant or terms thereof, and is not aware of any default or breach by any other party thereto.

(11) Title to PWUL Real Property and Leased Property Matters. PWUL has the exclusive right to possess, use and occupy, and has good and marketable title in fee simple to all the PWUL Real Property, free and clear of all Encumbrances or other restrictions of any kind other than the Permitted Encumbrances. Schedule 5.4(10) sets out the particulars of the PWUL Leased Property. All leases for the PWUL Leased Property will be available for review by NF Holdco. Except as described in Schedule 5.4(10), PWUL has the exclusive right to use and occupy the PWUL Leased Property. To the Knowledge of PW Holdco, all Appurtenances situated on the PWUL Real Property or the PWUL Leased Property are, in all Material respects in good operating condition and in a state of good maintenance and repair, are adequate and suitable for the purposes for which they are currently being used and PWUL has adequate rights of ingress and egress for the operation of the PWUL Business in the Ordinary Course in all Material respects. To the Knowledge of PW Holdco, none of those Appurtenances (or any equipment therein), nor the operation or maintenance thereof, violates any restrictive covenant or any provision of any Applicable Law, or encroaches on any property owned by others in such a manner as would reasonably be expected to have a Material Adverse Effect. Without limiting the generality of the foregoing:

(a) to the Knowledge of PW Holdco, the PWUL Real Property, the PWUL Leased Property, the current uses of and the conduct of the PWUL Business on those properties comply in all Material respects with all Applicable Laws including those dealing with zoning, parking, access, loading facilities, landscaped areas, building construction, fire and public health and safety and Environmental Law;

(b) to the Knowledge of PW Holdco, other than in the Ordinary Course, no alteration, repair, improvement or other work has been ordered, directed or requested in writing to be done or performed to or in respect of the PWUL Real Property, the PWUL Leased Property or to any of the plumbing, heating, elevating, water, drainage or electrical systems, fixtures or works by any Governmental Authority, which alteration, repair, improvement or other work has not been completed in all Material respects, and to the Knowledge of PW Holdco, no written notification has been given to PWUL of any such outstanding work being ordered, directed or requested, other than those that have been complied with in all Material respects;

(c) to the Knowledge of PW Holdco, all accounts for work and services performed and materials placed or furnished on or in respect of the PWUL Real Property or the PWUL Leased Property at the request of PWUL have been fully paid and satisfied in all Material respects, and no Person is entitled to claim a lien against the PWUL Real Property, the PWUL Leased Property or any part thereof, other than current accounts in respect of which the payment due date has not yet passed;

(d) to the Knowledge of PW Holdco, there are no amounts owing in respect of the PWUL Real Property or the PWUL Leased Property by PWUL to any municipal corporation or to any other corporation or commission owning or operating a utility for water, gas, steam or hot water, or for the use thereof, other than current accounts in respect of which the payment due date has not yet passed;

(e) to the Knowledge of PW Holdco, no part of the PWUL Real Property or the PWUL Leased Property has been taken or expropriated by any competent Governmental Authority nor has any notice or proceeding in respect thereof been given or commenced;

(f) to the Knowledge of PW Holdco, except for the Encumbrances listed in Schedule 5.4(11)(f) (the **"PWUL Real Property Encumbrances"**) there are no Encumbrances with a principal amount of $250,000 or more affecting the PWUL Real Property or the PWUL Leased Property;

(g) to the Knowledge of PW Holdco, each of the PWUL Real Property and the PWUL Leased Property (including all Appurtenances) is free of Material defects (patent or latent) and is fit for its present use, and there are no material or structural repairs or replacements that are necessary or advisable and, without limiting the foregoing, there are no repairs to, or replacements of, the roof or the mechanical, electrical, heating, ventilating, air-conditioning, plumbing or drainage equipment or systems that are necessary or advisable, and none of the PWUL Real Property or the PWUL Leased Property is currently undergoing any Material alteration or renovation nor is any such alteration or renovation contemplated; and

(h) to the Knowledge of PW Holdco, each of the PWUL Real Property and PWUL Leased Property is fully serviced and has suitable access to public roads, and there are no outstanding levies, charges or fees assessed against the PWUL Real Property or the PWUL Leased Property by any public authority (including development or improvement levies, charges or fees).

(12) Personal Property. To the Knowledge of PW Holdco, PWUL either owns or has rights to use, all of the personal property currently used in the PWUL Business, free and clear of all Encumbrances, other than Permitted Encumbrances and the Encumbrances listed in Schedule 5.4(12) (the "PWUL Personal Property Encumbrances") which are all of the Encumbrances with a principle amount of $50,000 or more affecting the personal property of PWUL.

(13) Personal Property Leases. The PWUL Equipment Leases described in Schedule 5.4(13) are all of the leases of personal property used in the PWUL Business. PWUL is entitled to all rights and benefits as lessee under the PWUL Equipment Leases, and PWUL has not sublet, assigned, licensed or otherwise conveyed any rights in those PWUL Equipment Leases or in the property leased thereunder to any other Person. All payments and other obligations required to be paid and performed by PWUL under the PWUL Equipment Leases have been duly paid and performed. PWUL is not in Material default of any of its obligations under the PWUL Equipment Leases; and, none of the lessors of the PWUL Equipment Leases is in Material default of any of its obligations thereunder.

(14) Accounts Receivable. All Accounts Receivable of PWUL are, in all Material respects, *bona fide* and good and have been incurred in the Ordinary Course and subject to an allowance for doubtful accounts that has been reflected on the books of PWUL in accordance with GAAP, all Accounts Receivable are collectible in the Ordinary Course.

(15) Intellectual Property.

(a) To the Knowledge of PW Holdco, PWUL either owns the right, title and interest in, to and under, or has acquired a licence to use in respect of the PWUL Business, any and all Intellectual Property that is used in the conduct of the PWUL Business in the manner that the PWUL Business has heretofore been conducted.

(b) To the Knowledge of PW Holdco, there is no Material infringement or breach of any industrial or intellectual property rights of any other Person by PWUL, and PWUL has not received any notice that the conduct of the PWUL Business, including the use of the Intellectual Property, infringes on or breaches any industrial or intellectual property rights of any other Person and PW Holdco does not have any Knowledge of any infringement or violation of any of their rights or the rights of PWUL in the Intellectual Property. To the Knowledge of PW Holdco, the conduct of the PWUL Business does not in any Material respect infringe on the patents, trade marks, licences, trade names, business names, copyright or other industrial or intellectual property rights, domestic or foreign, of any other Person.

(c) To the Knowledge of PW Holdco, PWUL has not received any notice of any adverse claim, litigation or assertion of infringement, invalidity or unenforceability in respect of the Intellectual Property that is used in the conduct of the PWUL Business and PWUL is not a party to any litigation alleging that the conduct of the PWUL Business, as now carried on by PWUL, infringes upon or breaches the rights of any other Person in Intellectual Property which would reasonably be expected to have a Material Adverse Effect.

(16) Insurance. The assets of PWUL are covered by fire and other insurance with responsible insurers against such risks and in such amounts as are reasonable for prudent owners of comparable assets. Schedule 5.4(16) sets out true, accurate and complete particulars of all insurance policies maintained by PWUL (the **"PWUL Insurance Policies"**), specifying in each case, the name of the insurer, the risks insured against, the amount of the coverage, the policy number and any pending Claims in excess of an amount of $10,000 thereunder. No other insurance is necessary to the conduct of the PWUL Business or would be considered to be desirable by a prudent Person operating a business similar to the PWUL Business. PWUL is not in default, whether as to the payment of premiums or with respect to any other provision contained in any PWUL Insurance Policy and has not failed to give any notice or present any Claim under any PWUL Insurance Policy in a due and timely fashion. True, accurate and complete copies of all PWUL Insurance Policies set out in Schedule 5.4(16) will be available for review by NF Holdco.

(17) Expropriation and Public Improvements. To the Knowledge of PW Holdco, none of the real property owned, or other realty rights leased, used or occupied, by PWUL in connection with the PWUL Business is subject to any pending suit for expropriation, condemnation or other taking by any Governmental Authority, and no such

expropriation, condemnation or other taking has been threatened. To the Knowledge of PW Holdco, no public improvements with respect to any real property owned, or other realty rights leased, used or occupied, by PWUL in connection with the PWUL Business have been ordered to be made by any Governmental Authority which have not been completed, assessed and paid for in all Material respects.

(18) Material Contracts and Other Contracts.

Schedule 5.4(18) sets out the particulars of each Material Contract to which PWUL is a party.

(a) Each Material Contract:

(i) constitutes a legal, valid, binding and enforceable obligation of PWUL and, to the Knowledge of PW Holdco, of the other parties thereto, in accordance with its terms; and

(ii) is in full force and effect, unamended.

(b) To the Knowledge of PW Holdco, there is not, under any of the Material Contracts, any default or event which, with notice or lapse of time or both, would constitute a Material default on the part of PWUL, or, to the Knowledge of PW Holdco, any of the other parties thereto, or permit the other parties thereto to terminate, cancel or accelerate such Material Contract, whether on notice or otherwise except such events of default and other events:

(i) as to which requisite waivers or consents have been obtained; or

(ii) which would not individually or in the aggregate, be reasonably expected to have a Material Adverse Effect.

(c) True and complete copies of all of the Material Contracts have been made available for review to NF Holdco.

(19) Government Filings. To the Knowledge of PW Holdco, PWUL has filed or caused to be filed with all Governmental Authorities all Government Filings required to be filed by PWUL with respect to the PWUL Business under Applicable Law except where the failure to do so would not be reasonably expected to have a Material Adverse Effect. All of the Government Filings of PWUL complied in all Material respects with all Applicable Laws in effect on the date each Government Filings was filed, and there are no material misstatements or omissions relating to the PWUL Business in the Government Filings of PWUL.

(20) Permits.

(a) To the Knowledge of PW Holdco, PWUL has all Permits (collectively, the **"PWUL Permits"**), that are required by Applicable Law in connection with the PWUL Business, except for those PWUL Permits, the failure of which to obtain

would not, individually or in the aggregate, have a Material Adverse Effect. To the Knowledge of PW Holdco, PWUL has not received any written notification that it is in violation of any such PWUL Permits except for notifications of violations which would not, individually or in the aggregate, have a Material Adverse Effect. To the Knowledge of PW Holdco, PWUL is in compliance with all PWUL Permits and Applicable Law in respect of the PWUL Business, except for violations which would not, individually or in the aggregate, result in a Material Adverse Effect.

(b) Schedule 5.4(20) sets forth a list of all Material PWUL Permits (other than the PWUL Environmental Permits) applicable to the PWUL Business.

(21) Financial Statements. The PWUL 2005 Financial Statements have been prepared in accordance with GAAP consistently applied throughout the periods indicated and fairly, completely and in all Material respects present the assets, liabilities (whether accrued, absolute, contingent or otherwise) and financial condition of PWUL as at the respective dates indicated and the sales, earnings and results of operations of PWUL throughout the periods indicated.

(22) Books and Records. To the Knowledge of PW Holdco, the Books and Records of PWUL fairly present and disclose the financial position of PWUL as at the date of this Agreement and all financial transactions of PWUL have in all Material respects been accurately recorded in the Books and Records. The system of internal accounting controls is sufficient to provide reasonable assurances that transactions are executed in accordance with management's general or specific authorization and that transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain accountability for assets.

(23) Corporate Records. To the Knowledge of PW Holdco, the corporate records, including the minute books, of PWUL contain, in all Material respects, true, accurate and complete records of all of its Constating Documents and of every meeting, resolution and corporate action taken by the shareholders, the board of directors and every committee of either of them. No meeting of shareholders, the board of directors or any committee of either of them has been held for which minutes have not been prepared and are not contained in those minute books. The share certificate book, register of shareholders, register of directors and officers, securities register and register of transfer of PWUL are true, accurate and complete in all Material respects. All such records will be made available for review to NFHI.

(24) Undisclosed Liabilities. PWUL has no liabilities, obligations, indebtedness or commitments, whether accrued, absolute, contingent or otherwise, and is not a party to or bound by any agreement of guarantee, support, indemnification, assumption or endorsement of, or any other similar commitment with respect to the liabilities, obligations, indebtedness or commitments (whether accrued, absolute, contingent or otherwise) of any Person, that are not disclosed in the PWUL 2005 Financial Statements or disclosed in the Schedules to this Agreement, other than liabilities, obligations, indebtedness and commitments in respect of trade or business obligations incurred after

the date of the PWUL 2005 Financial Statements in the Ordinary Course, that in the aggregate would not reasonably be expected to have a Materially Adverse Effect on PWUL.

(25) Absence of Changes. Except as disclosed in the PWUL 2005 Financial Statements, since December 31, 2005, to the Knowledge of PW Holdco there has not been any:

(a) change in the financial affairs, business, assets, liabilities, financial condition, operations or prospects of PWUL or in the condition of the PWUL Business which would constitute a Material Adverse Effect; or

(b) damage, destruction or casualty loss, investigation by a Governmental Authority, or any other event, development or condition of any character, whether or not covered by insurance, in respect of PWUL or the PWUL Business, which individually or in the aggregate, has or would reasonably be expected to have a Material Adverse Effect.

(26) Absence of Unusual Transactions. Except as described in Schedule 5.4(26) and elsewhere in this Agreement, since December 31, 2005, PWUL has not:

(a) transferred, assigned, sold or otherwise disposed of any of its assets or cancelled any debts or entitlements except, in each case, in the Ordinary Course of the PWUL Business;

(b) incurred or assumed any obligation or liability (fixed or contingent), except unsecured current obligations and liabilities incurred in the Ordinary Course of the PWUL Business;

(c) suffered an operating loss or any extraordinary loss, waived or omitted to take any action in respect of any rights, or entered into any commitment or transaction, except in the Ordinary Course of the PWUL Business;

(d) granted any bonuses, whether monetary or otherwise, or made any general wage or salary or perquisites increases in respect of its officers, directors or PWUL Employees, other than as provided for in the PWUL Collective Agreement, or changed the terms of employment for any officer or PWUL Employee, except in the Ordinary Course of the PWUL Business and consistent with past practice; or

(e) Encumbered any of its assets or property whether tangible or intangible except in the Ordinary Course of the PWUL Business or pursuant to Permitted Encumbrances.

(27) Taxes.

(a) Each of PW Holdco and PWUL is exempt from tax under the Tax Act and the *Corporations Tax Act* (Ontario).

(b) PWUL has filed in the prescribed manner all Tax Returns required to be filed by it in all applicable jurisdictions before the Closing Date. All such Tax Returns are complete and correct and disclose all Taxes required to be paid for the periods covered thereby. PWUL has never been required to file any Tax Returns with, and has never been liable to pay or remit Taxes to, any Governmental Authority outside Canada. PWUL has paid all Taxes and all instalments of Taxes due on or before the Closing Date.

(c) There are no audits, assessments, reassessments or other Claims in progress or, to the Knowledge of PW Holdco, threatened against PWUL, in respect of any Taxes and, in particular, there are no currently outstanding reassessments or written enquiries which have been issued or raised by any Governmental Authority relating to any such Taxes. PW Holdco is not aware of any contingent liability of PWUL for Taxes or any grounds that could prompt an assessment or reassessment for Taxes other than an assessment in respect of current Tax Returns for which no assessment has been received as at the date of this Agreement and PWUL has not received any indication from any Governmental Authority that any assessment or reassessment is proposed.

(d) There are no agreements, waivers or other arrangements with any Governmental Authority providing for an extension of time with respect to the issuance of any assessment or reassessment, the filing of any Tax Return, or the payment of any Taxes by or in respect of PWUL. PWUL is not party to any agreements or undertakings with respect to Taxes.

(e) PWUL has withheld from each payment made or amount credited to any Person (including any of its present or former employees, officers and directors, and to all Persons who are non-residents of Canada for the purposes of the Tax Act) all amounts required by Applicable Law to be withheld, and furthermore, has remitted such withheld amounts within the prescribed periods to the appropriate Governmental Authority. PWUL has remitted all Canada Pension Plan contributions, employment insurance premiums, employer health Taxes and other Taxes payable by it in respect of PWUL Employees and has remitted such amounts to the proper Governmental Authority within the time required under Applicable Law.

(f) PWUL has charged, collected and remitted on a timely basis all Taxes as required under Applicable Law on any sale, supply, transfer or delivery whatsoever, made by it. For greater certainty, PWUL has, in the manner and within the time prescribed by the Electricity Act, notified the MOF of any transfer of "municipal electricity property" within the meaning of the Electricity Act and has ensured the payment of any Transfer Tax exigible in respect of such transfer.

(g) To the Knowledge of PW Holdco, PWUL has correctly computed its liability for PILS, Transfer Tax or special payments under Part VI of the Electricity Act in accordance with the Electricity Act and the regulations thereunder and has made on a timely basis all payments required to be made thereunder.

(28) Litigation. Except as described in Schedule 5.4(28), there are no Claims (whether or not purportedly on behalf of PWUL) pending or, to the Knowledge of PW Holdco, threatened against or affecting, PWUL or its assets. To the Knowledge of PW Holdco there is not any factual or legal basis on which any such Claim which would affect PWUL's ability to complete its obligations under this Agreement might be commenced with any reasonable likelihood of success.

(29) Non-Arm's Length Transactions. Except as described in Schedule 5.4(29), PWUL has not made any payment or loan to, or borrowed any moneys from or is otherwise indebted to, any officer, director, employee, shareholder or any other Person not dealing at arm's length with PWUL (within the meaning of the Tax Act), except as disclosed in the PWUL 2005 Financial Statements and except for usual employee reimbursements and compensation paid in the Ordinary Course. Except as described in Schedule 5.4(29), except for Contracts of employment, PWUL is not a party to any Contract with any officer, director, employee, shareholder or any other Person not dealing at arm's length with PWUL (within the meaning of the Tax Act).

(30) Environmental.

(a) Except as described in Schedule 5.4(30)(a), to the Knowledge of PW Holdco, PWUL has, in all Material respects, been and is in compliance with all Environmental Law.

(b) To the Knowledge of PW Holdco, PWUL has obtained all Material Environmental Permits required for the operation of the PWUL Business, all of which are described in Schedule 5.4(30)(b) (the **"PWUL Environmental Permits"**). To the Knowledge of PW Holdco, each PWUL Environmental Permit is valid, subsisting and in good standing and PWUL is not in default or breach of any PWUL Environmental Permit which default or breach would reasonably be expected to have a Material Adverse Effect and no proceeding is pending or threatened, to revoke or limit any PWUL Environmental Permit.

(c) To the Knowledge of PW Holdco, PWUL has not used or permitted to be used, except in Material compliance with all Environmental Law, any of its assets (including the PWUL Leased Property) or facilities or any property or facility that it has at any time owned, occupied, managed, or controlled or in which it has at any time had a legal or beneficial interest to generate, manufacture, process, distribute, use, treat, store, dispose of, transport or handle any Hazardous Substance.

(d) Save for the Quarry Road Property, to the Knowledge of PW Holdco, PWUL has never received any notice of, nor been prosecuted for an offence alleging non-compliance with any Environmental Law, and PWUL has not settled any allegation of non-compliance short of prosecution. Save for the Quarry Road Property, to the Knowledge of PW Holdco, there are no orders or directions relating to environmental matters requiring any work, repairs, construction or

capital expenditures with respect to the PWUL Business or any of PWUL's assets, nor has PWUL received notice of any of such orders or directions.

(e) Save for the Quarry Road Property, PWUL has not caused or permitted, and PW Holdco does not have any Knowledge of, the Release, in any Material manner, of any Hazardous Substance on or from any of PWUL's assets or any property or facility that PWUL previously owned or leased, except in accordance with Environmental Law, or any such Release on or from a facility owned or operated by third parties but with respect to which PWUL is or may reasonably be alleged to have liability except in accordance with Environmental Law. Save for the Quarry Road Property, all Hazardous Substances and all other wastes and other materials and substances used in whole or in part by PWUL or resulting from the PWUL Business have, all Material respects, been disposed of, treated and stored in compliance with all Environmental Law.

(f) Save for the Quarry Road Property, PWUL has not received any notice that it is potentially responsible for any clean-up or corrective action under any Environmental Law at any site. Save for the Quarry Road Property, PWUL has not received any request for information in connection with any federal, provincial, municipal or local inquiries as to disposal sites.

(31) Employee Plans.

(a) Schedule 5.4(31) identifies each non-salary plan, program or arrangement including deferred compensation, bonus compensation, incentive or other compensation, share option or purchase, severance, termination pay, hospitalization or other medical benefit, life or other insurance, vision, dental, drug, sick leave, disability, salary continuation, vacation, supplemental unemployment benefits, profit sharing, mortgage assistance, pension or supplemental pension, retirement compensation, group registered retirement savings, deferred profit sharing, employee profit sharing, savings, retirement or supplemental retirement, and any other similar plan, program or arrangement, whether funded or unfunded, formal or informal, including, OMERS, that is maintained, contributed to, or required to be maintained or contributed to, by PWUL, or to which PWUL is a party, or bound by, or under which, to the Knowledge of PW Holdco, PWUL has any liability or contingent liability for the benefit of directors, officers, shareholders, consultants, independent contractors and employees or former employees of PWUL and their dependents (the **"PWUL Employee Plans"**).

(b) OMERS is the only registered pension plan under which the PWUL Employees, or any of them, accrue pension benefits, or under which former PWUL Employees are entitled to payment of any pension benefits, and has been accepted for registration under the Tax Act and has been registered with the Superintendent of Financial Institutions under the *Pension Benefits Standards Act* (Canada).

(c) Each of the PWUL Employee Plans is, and has been, in all Material respects, established, registered, qualified, administered and invested in compliance with:

(i) the terms thereof;

(ii) all Applicable Laws;

(iii) the administrative practices of the applicable pension regulator and the CRA;

and PWUL has not received, in the last three years, any notice from any Person questioning or challenging that compliance, and PW Holdco does not have any Knowledge of any such notice from any Person questioning or challenging that compliance prior to the last three years.

(d) To the Knowledge of PW Holdco, all obligations due under the PWUL Employee Plans (whether pursuant to the terms thereof or any Applicable Law) have been satisfied, and there are no outstanding defaults or violations thereunder by PWUL nor does PW Holdco have any knowledge of any default or violation by any other Person in respect of the PWUL Employee Plans.

(e) Except as disclosed in Schedule 5.4(31), there are no improvements, increases or changes to the benefits provided under the PWUL Employee Plans nor is there any pattern of *ad hoc* benefit increases and the PWUL Employee Plans do not provide for benefit increases or the acceleration of funding obligations that are contingent or will be triggered by the entering into of this Agreement or the completion of the Amalgamation.

(f) All employer and employee payments, contributions and premiums required to be remitted or paid to or in respect of the PWUL Employee Plans, including OMERS, have been remitted or paid, in a timely fashion to or in respect of the PWUL Employee Plans in accordance with the terms thereof and all Applicable Laws, and no Taxes, non-Tax related interest, penalties or fees are owing or exigible under any of the PWUL Employee Plans.

(g) There is no Claim by any applicable Governmental Authority, including the applicable pension regulator and the CRA, or by any Person (other than routine Claims for payment of benefits) pending or, to the Knowledge of PW Holdco, threatened in respect of any of the PWUL Employee Plans or their assets, and, to the Knowledge of PW Holdco, no facts exist which could reasonably be expected to give rise to any such Claim (other than routine Claims for benefits).

(h) To the Knowledge of PW Holdco, with respect to any PWUL Employee Plan which is registered under any Applicable Law, no event has occurred respecting that PWUL Employee Plan which would result in the revocation of that registration or entitle any Person (without the consent of PWUL) to wind-up or terminate that Employee Plan in whole or in part, or which could otherwise reasonably be expected to adversely affect the Tax-favoured status thereof.

(i) To the Knowledge of PW Holdco, PWUL has provided to the OMERS Board, on a timely basis, all information known to PWUL and requested from time to time by the OMERS Board in respect of the PWUL Employees, former PWUL Employees and their spouses and former spouses and which is necessary in order to enable the OMERS Board to properly administer OMERS in respect of them.

(j) No Material changes have occurred in respect of each of the PWUL Employee Plans since the date of its most recent financial, accounting, actuarial or other report, as applicable, filed with the applicable pension regulator, the CRA and any other applicable Governmental Authority (where applicable) in connection with that PWUL Employee Plan, nor have there been any events occurring prior to the most recent financial, accounting, actuarial or other report which are not disclosed in that report which could reasonably be expected to adversely affect the relevant report (including rendering it misleading in any Material respect) or to have Materially affected the financial status of that PWUL Employee Plan.

(k) There has not been any withdrawal of, application for, or payment of, any surplus or other funds out of OMERS by any Person including PW Holdco and PWUL except for payments made to departing employees in accordance with the terms of OMERS and the Applicable Laws.

(l) If PWUL has taken any contribution or premium holidays under OMERS, those holidays have been permitted by the applicable pension regulator, the Tax Act and all other Applicable Laws and have been permitted by the valid terms of OMERS.

(m) To the Knowledge of PW Holdco, each of the PWUL Employee Plans which purports to qualify as a particular type of plan under the Tax Act meets all requirements for that qualification in effect and has complied with the provisions of the Tax Act and the administrative practices of the CRA applicable to that plan.

(32) Employment Matters.

(a) Except for the PWUL Collective Agreement or as otherwise disclosed in Schedule 5.4(32), there are no Contracts in respect of PWUL for the employment or retainer of any PWUL Employee, including, for greater certainty, Contracts with directors, officers, employees, independent contractors or agents providing personal services, other than oral Contracts of indefinite hire terminable by PWUL without cause on reasonable notice.

(b) Except as disclosed in Schedule 5.4(32), PWUL is not a party to nor is it bound by any Contract in respect of any PWUL Employee providing for severance, termination or any other payments in connection with the Amalgamation.

(c) PWUL has provided NF Holdco with the total number of full and part-time employees of NFHI and the number of employees represented by the IBEW as well as the years of service and salary information of all PWUL Employees.

(33) Labour Matters. PWUL has made available to NF Holdco a true, complete and current copy of the PWUL Collective Agreement. In connection with PWUL labour matters:

(a) the PWUL Collective Agreement is the only Material Contract with unionized workers;

(b) PWUL is in Material compliance with all Employment Law applicable to PWUL;

(c) PWUL has not received notice of any unfair labour practice complaint or any other Employment Law complaint which is current or pending before any labour relations or similar board or any other body or tribunal in connection with the PWUL Business;

(d) there is no labour strike, slowdown or stoppage actually pending or, to the Knowledge of PW Holdco, threatened by any authorized representative of any union or other representative of employees affecting the PWUL Business;

(e) PWUL has not received notice that any application for certification or de-certification respecting the PWUL Employees has been filed with any labour relations or similar board; and

(f) no grievance or arbitration proceeding arising out of or under the PWUL Collective Agreement is pending against PWUL in respect of the PWUL Employees or otherwise affecting the PWUL Business which proceeding, if determined adversely to PWUL, would have a Material Adverse Effect.

(34) Personal Information Laws. To the Knowledge of PW Holdco, PWUL is in Material compliance with the requirements of all Applicable Laws relating to its collection, use and disclosure of Personal Information, including the establishment and observance of written policies and practices. No complaint relating to PWUL's alleged non-compliance with any such Applicable Law has been found by any Governmental Authority to be well-founded, no order or judgment has been made against PWUL by any Governmental Authority based on any finding of non-compliance with any such Applicable Law, and no unresolved complaint or other proceeding relating to any such alleged non-compliance is now pending by or before any Governmental Authority.

(35) No Joint Venture Interests, etc. Except as set out in Schedule 5.4(35), PWUL is not a partner, beneficiary, trustee, co-tenant, joint-venturer or otherwise a participant in any partnership, trust, joint venture, co-tenancy or similar jointly owned business undertaking.

(36) Condition of Assets. To the Knowledge of PW Holdco, except as would not result in a Material Adverse Effect, the Fixtures situated on the PWUL Real Property or used in connection with the PWUL Business are in good condition, repair and proper working order, having regard to their use and age and such assets have been properly and regularly maintained in accordance with Good Utility Practices.

(37) Third Party Consents. Except as described in Schedule 5.4(37) (the **"PWUL Third Party Consents"**), there are no Third Party Consents required to be obtained by PW Holdco or PWUL in order to complete the Amalgamation as contemplated by this Agreement.

(38) Residence. PWUL is not a non-resident of Canada for purposes of the Tax Act.

(39) Full Disclosure. Neither this Agreement or any other contract, agreement, instrument, certificate or other document required to be delivered by or otherwise to be delivered pursuant to this Agreement by PW Holdco or PWUL nor any certificate, report, statement or other document furnished by PW Holdco or PWUL in connection with the negotiation of this Agreement contains or will contain any untrue statement of a Material fact or omits or will omit to state a Material fact necessary to make the statements contained herein or therein not misleading. To the Knowledge of PW Holdco, there has been no event, transaction or information that has come to the attention of PW Holdco or PWUL that has not been disclosed to the NF Holdco in writing that could reasonably be expected to have a Material Adverse Effect.

ARTICLE 6
COVENANTS

6.1 Covenants of NF Holdco

NF Holdco covenants and agrees with PW Holdco that NF Holdco will do or cause to be done the following:

(1) Conduct Prior to Closing. Without in any way limiting any other obligations of NF Holdco and NFHI hereunder, except as specifically provided in this Agreement or with the prior written consent of PW Holdco during the Interim Period:

(a) NF Holdco shall cause NFHI to conduct the NFHI Business and the operations and affairs of NFHI only in the Ordinary Course, and NFHI shall not, without the prior written consent of PW Holdco, enter into any transaction or refrain from doing any action that, if effected before the date of this Agreement, would constitute a breach of any representation, warranty, covenant or other obligation of NF Holdco in this Agreement and, without limiting the generality of the foregoing, NF Holdco shall cause NFHI:

(i) not to amalgamate, merge or consolidate with or acquire or agree to acquire all or substantially all of the shares and assets of any Person, not to acquire or lease or agree to acquire or lease any business operations in any other Person;

(ii) not to enter into any compromise or settlement of any litigation, proceeding or government investigation relating to the NFHI Business or any of the assets of NFHI;

(iii) not to make any Material modification to its usual sales, human resource, accounting, software, or management practices, processes or systems; or

(iv) not to enter into any Material Contract:

(b) NF Holdco shall cause NFHI to continue to maintain in full force and effect all the NFHI Insurance Policies or renewals thereof currently in effect;

(c) NF Holdco shall use its commercially reasonable efforts to give or obtain or cause NFHI to give or obtain, and NFHI shall use its commercially reasonable efforts to obtain, the Third Party Consents described in Schedule 5.2(37);

(d) NF Holdco shall use its commercially reasonable efforts to preserve, and cause NFHI to preserve intact, the NFHI Business, the assets of NFHI, and the operations and affairs of NFHI and to carry on the NFHI Business and the affairs of NFHI as currently conducted, and to promote and preserve the goodwill of suppliers, customers and others having business relations with NFHI;

(e) NF Holdco shall cause NFHI to pay and discharge the liabilities of NFHI in the Ordinary Course in accordance and consistent with the previous practice of NFHI, except those contested in good faith by NFHI;

(f) NF Holdco shall use its commercially reasonable efforts to take and cause NFHI to take, all necessary corporate action, steps and proceedings to approve or authorize, validly and effectively, the execution and delivery of this Agreement and the other agreements and documents contemplated hereby and to complete the Amalgamation and to cause all necessary meetings of directors and shareholders of NF Holdco and NFHI to be held for that purpose;

(g) NF Holdco shall, and shall cause NFHI to, use its commercially reasonable efforts to satisfy the conditions contained in Section 4.2.

(2) Rights of Access. During the Interim Period, NF Holdco shall cause NFHI to provide during ordinary business hours and upon reasonable notice and subject to compliance with all Applicable Laws and confidentiality agreements, PW Holdco and its Representatives, with reasonable access to NFHI's management, Books and Records, Contracts, Intellectual Property, insurance policies, premises, properties and other information relating to NFHI and the NFHI Business.

(3) Exclusive Dealings. During the Interim Period, NF Holdco shall not, and shall cause NFHI not to, take any action, directly or indirectly, to encourage, initiate or engage in discussions or negotiations with, or provide any information to, any Person, other than PW Holdco and its designated and authorized Representatives, concerning any sale or merger of NFHI or any portion of the NFHI Business or the assets of NFHI. NF Holdco shall notify PW Holdco promptly if any such discussions or negotiations are sought or if any proposal for a sale, of any portion of the NFHI Business or the assets of NFHI is received or being considered.

(4) No Amendment to Articles. NFHI shall not make any amendment to its articles of incorporation or by-laws, and NF Holdco shall not require or authorize the same.

(5) Transition Arrangements. NF Holdco shall, and shall cause NFHI to, complete the transition arrangements provided in Section 2.5(a) and to co-operate in good faith with PW Holdco and PWUL to complete the transition arrangements in Section 2.5(b).

(6) MOF Notification. NFHI shall, in the manner and within the time prescribed by the Electricity Act, notify the MOF of any transfer of "municipal electricity property" within the meaning of the Electricity Act in connection with the Amalgamation.

(7) Employees. All of the NFHI Employees shall become employees of Mergeco with no Material change to their positions effective as at the Amalgamation Effective Time.

6.2 Covenants of PW Holdco

PW Holdco covenants and agrees with NF Holdco that PW Holdco will do or cause to be done the following:

(1) Conduct Prior to Closing. Without in any way limiting any other obligations of PW Holdco and PWUL hereunder, except as specifically provided in this Agreement or with the prior written consent of NF Holdco during the Interim Period:

(a) PW Holdco shall cause PWUL to conduct the PWUL Business and the operations and affairs of PWUL only in the Ordinary Course, and PWUL shall not, without the prior written consent of NF Holdco, enter into any transaction or refrain from doing any action that, if effected before the date of this Agreement, would constitute a breach of any representation, warranty, covenant or other obligation of PW Holdco in this Agreement and, without limiting the generality of the foregoing, PW Holdco shall cause PWUL:

(i) not to amalgamate, merge or consolidate with or acquire or agree to acquire all or substantially all of the shares and assets of any Person, not to acquire or lease or agree to acquire or lease any business operations in any other Person;

(ii) not to enter into any compromise or settlement of any litigation, proceeding or government investigation relating to the PWUL Business or any of the assets of PWUL;

(iii) not to make any Material modification to its usual sales, human resource, accounting, software, or management practices, processes or systems; or

(iv) not to enter into any Material Contract;

(b) PW Holdco shall cause PWUL to continue to maintain in full force and effect all the PWUL Insurance Policies or renewals thereof currently in effect;

(c) PW Holdco shall use its commercially reasonable efforts to give or obtain or cause PWUL to give or obtain, and PWUL shall use its commercially reasonable efforts to obtain, the Third Party Consents described in Schedule 5.2(37);

(d) PW Holdco shall use its commercially reasonable efforts to preserve, and cause PWUL to preserve intact, the PWUL Business, the assets of PWUL, and the operations and affairs of PWUL and to carry on the PWUL Business and the affairs of PWUL as currently conducted, and to promote and preserve the goodwill of suppliers, customers and others having business relations with PWUL;

(e) PW Holdco shall cause PWUL to pay and discharge the liabilities of PWUL in the Ordinary Course in accordance and consistent with the previous practice of PWUL, except those contested in good faith by PWUL;

(f) PW Holdco shall use its commercially reasonable efforts to take and cause PWUL to take, all necessary corporate action, steps and proceedings to approve or authorize, validly and effectively, the execution and delivery of this Agreement and the other agreements and documents contemplated hereby and to complete the Amalgamation and to cause all necessary meetings of directors and shareholders of PW Holdco and PWUL to be held for that purpose;

(g) PW Holdco shall, and shall cause PWUL to, use its commercially reasonable efforts to satisfy the conditions contained in Section 4.1.

(2) Rights of Access. During the Interim Period, PW Holdco shall cause PWUL to provide during ordinary business hours and upon reasonable notice and subject to compliance with all Applicable Laws and confidentiality agreements, NF Holdco and its Representatives, with reasonable access to PWUL 's management, Books and Records, Contracts, Intellectual Property, insurance policies, premises, properties and other information relating to PWUL and the PWUL Business.

(3) Exclusive Dealings. During the Interim Period, PW Holdco shall not, and shall cause PWUL not to, take any action, directly or indirectly, to encourage, initiate or engage in discussions or negotiations with, or provide any information to, any Person, other than NF Holdco and its designated and authorized Representatives, concerning any sale or merger of PWUL or any portion of the PWUL Business or the assets of PWUL; provided that PW Holdco and PWUL may continue to review the potential purchase of certain electricity distribution assets from Hydro One Networks Inc. and may in the sole discretion of PW Holdco and PWUL complete such a transaction on such terms as they may determine to be acceptable to them alone. PW Holdco shall notify NF Holdco promptly if any such discussions or negotiations are sought or if any proposal for a sale, of any portion of the PWUL Business or the assets of PWUL is received or being considered.

(4) No Amendment to Articles. PWUL shall not make any amendment to its articles of incorporation or by-laws, and PW Holdco shall not require or authorize the same.

(5) Transition Arrangements. PW Holdco shall, and shall cause PWUL to, complete the transition arrangements provided in Section 2.5(b) and to co-operate in good faith with NF Holdco and NFHI to complete the transition arrangements in Section 2.5(b).

(6) MOF Notification. PWUL shall, in the manner and within the time prescribed by the Electricity Act, notify the MOF of any transfer of "municipal electricity property" within the meaning of the Electricity Act in connection with the Amalgamation.

(7) Employees. All of the PWUL Employees shall become employees of Mergeco with no Material change to their positions effective as at the Amalgamation Effective Time.

(8) Post-Closing Covenant. At Closing, if PW Holdco is the owner of the Quarry Road Property, PW Holdco covenants to lease to Mergeco the Quarry Road Property at fair market value and on terms and conditions mutually agreed upon by PW Holdco and Mergeco.

6.3 Mutual Covenants

(1) Co-operation and Compliance. Subject to the terms and conditions of this Agreement and Applicable Law, each of the Parties shall use commercially reasonable efforts to take, or cause to be taken, all action, and to do, or cause to be done, all things necessary, proper or advisable to consummate and make effective, as soon as reasonably practicable, the Amalgamation and other transactions contemplated hereby, including using commercially reasonable efforts to ensure satisfaction of the conditions precedent to each Party's obligations under this Agreement.

(2) Amalgamation Agreement. On Closing, each of NFHI and PWUL shall execute and deliver the Amalgamation Agreement and the articles of amalgamation and related documentation required to be filed pursuant to the OBCA to give effect to the Amalgamation.

(3) Mergeco Shareholders Agreement. On Closing, each of NF Holdco and PW Holdco shall execute and deliver, and shall cause Mergeco to execute and deliver, the Mergeco Shareholders Agreement.

(4) Cooperation with OEB MAAD Application. Each of the Parties shall cooperate with one another to prepare and submit to the OEB as soon as possible following execution of this Agreement an application (the **"MAAD Application"**) requesting approval of the Amalgamation and any corresponding amendment of the electricity distribution licences held by NFHI and PWUL.

(5) Confidentiality. The Parties shall treat as confidential this Agreement, the terms and conditions set out herein and all information provided to one another in accordance with this Agreement. All such information shall be kept in the strictest confidence and not

divulged to any unrelated third party or used by NF Holdco, NFHI, PW Holdco or PWUL except for purposes of the Amalgamation.

(6) Public Statements. No Party shall issue or make any public announcement or press release (a **"Public Announcement"**) with respect to this Agreement or the Amalgamation or other transactions contemplated hereby without the prior written consent of both NF Holdco and PW Holdco, which consent shall not be unreasonably withheld or delayed, except as may be required by Applicable Law or a Governmental Authority. If such disclosure is required by Applicable Law or a Governmental Authority, the Party required to make such disclosure shall, if practicable, provide prior notice to the other Parties of such requirement, the nature thereof, and the nature of the proposed disclosure, and shall limit the scope of such disclosure to the extent necessary to comply with such requirement. Upon the completion of the Amalgamation, the Parties shall issue a mutually acceptable press release.

(7) Third Party Consents. Each Party shall have the right to review in advance information which appears in any application, notice, petition or filing made seeking Third Party Consents required in connection with the Amalgamation and other transactions contemplated hereby.

(8) Post Closing Tax Obligations. NF Holdco and PW Holdco shall, on a timely basis, cause Mergeco to: (i) prepare and file with the appropriate Governmental Authorities all Tax Returns required to be filed by NFHI and PWUL for all periods prior to and ending on the day immediately preceding the Closing Date; and (ii) pay or remit all amounts in respect of Taxes required to be paid or remitted by NFHI and PWUL for all periods prior to and ending on the day immediately preceding the Closing Date.

(9) Intercorporate Services Agreements. The Parties agree that all agreements with respect to the provision of services by NFHI and PWUL to their respective Affiliates shall be transferred to and assumed by Mergeco unless specifically excluded pursuant to this Agreement and that Mergeco shall after Closing ensure that it operates in compliance with the Affiliates Relationship Code.

ARTICLE 7
INDEMNIFICATION

7.1 Indemnification

(1) Subject to Sections 7.1(6) and 7.1(8), NF Holdco shall indemnify, defend and hold harmless, PW Holdco and Mergeco, and each of their respective officers, directors, employees, shareholders and agents, (each, a **"Penwest Indemnitee"**) from and against any and all claims, demands, suits, losses, liabilities, damages, obligations, assessments, reassessments, charges, payments, costs and expenses and accrued interest thereon (including the costs and expenses of, and accrued interest in respect of, any and all actions, suits, proceedings, assessments, judgments, settlements and compromises relating thereto and reasonable lawyers' and other professionals' and experts' fees and

reasonable disbursements in connection therewith) (each, an **"Indemnifiable Loss"**), asserted against or suffered by any Penwest Indemnitee relating to, in connection with or resulting from or arising out of any Direct Claim or Third Party Claim in respect of:

(a) any breach by NF Holdco of any representation and warranty contained in this Agreement, or incorrectness in any certificate furnished by NF Holdco or NFHI in accordance with this Agreement; or

(b) any breach by NF Holdco and NFHI, or either of them, of any covenants or agreements contained in this Agreement provided such breach was not caused by the breach by PW Holdco or PWUL of its covenants or agreements contained in this Agreement; or

provided that in the case of (a) or (b) the Claim is brought within the time limits set out in Section 8.3.

(2) It is the intention of NF Holdco to constitute PW Holdco as trustee for the Penwest Indemnitees that are not party to this Agreement of the covenants of NF Holdco in this Article 7 and PW Holdco agrees to accept such trust and to hold and enforce such covenants on behalf of the Penwest Indemnitees.

(3) Subject to Sections 7.1(7) and 7.1(8), PW Holdco shall indemnify, defend and hold harmless NF Holdco and Mergeco, and each of their respective officers, directors, employees, shareholders, and agents (each, a **"Niagara Falls Indemnitee"**) from and against any and all Indemnifiable Losses asserted against or suffered by any Niagara Indemnitee relating to, in connection with, resulting from or arising out of any Direct Claim or Third Party Claim in respect of:

(a) any breach by PW Holdco of any representations and warranties contained in this Agreement, or incorrectness in any certificate furnished by PW Holdco or PWUL in accordance with this Agreement; or

(b) any breach by PW Holdco and PWUL, or either of them, of any covenants or agreements contained in this Agreement provided such breach was not caused by the breach by NF Holdco or NFHI or its covenants or obligations contained in this Agreement;

provided that in the case of (a) or (b) the Claim is brought within the time limits set out in Section 8.3.

(4) It is the intention of PW Holdco to constitute NF Holdco as trustee for the Niagara Falls Indemnitees that are not party to this Agreement of the covenants of PW Holdco in this Article 7 and NF Holdco agrees to accept such trust and to hold and enforce such covenants on behalf of the Niagara Falls Indemnitees.

(5) The expiration or termination of any period of indemnification set out in Sections 7.1(1) and 7.1(3) shall not affect the Parties' obligations under this Article 7 if the Indemnitee provides the Person required to provide indemnification under this Agreement (the

"Indemnifying Party") with proper notice of the Claim or event for which indemnification is sought prior to such expiration or termination.

(6) NF Holdco's obligations under this Article 7 shall be limited as follows:

(a) no Penwest Indemnitee shall be entitled to claim in respect of an Indemnifiable Loss until the time that the aggregate amount of all Indemnifiable Losses of Penwest Indemnitees exceeds $250,000 and once such threshold is reached the Penwest Indemnitees shall be entitled to claim for the full amount of Indemnifiable Losses; provided that there shall be no such threshold in respect of Indemnifiable Losses involving fraud or fraudulent misrepresentation;.

(7) PW Holdco's obligations under this Article 7 shall be limited as follows:

(a) no Niagara Falls Indemnitee shall be entitled to claim in respect of an Indemnifiable Loss until the time that the aggregate amount of all Indemnifiable Losses of Niagara Falls Indemnitees exceeds $250,000 and once such threshold is reached, the Niagara Falls Indemnitees shall be entitled to claim for the full amount of Indemnifiable Losses; provided that there shall be no such threshold in respect of Indemnifiable Losses involving fraud or fraudulent misrepresentation;

(8) Notwithstanding anything to the contrary in this Agreement:

(a) no Party (including a non-Party Indemnitee) shall be entitled to recover hereunder any amount in excess of the actual compensatory damages, court costs and reasonable fees and other expenses of lawyers and other professionals and experts suffered by such Party; and

(b) each Party waives any right to recover punitive, special and consequential damages arising in connection with or with respect to this Agreement.

The provisions of this Section 7.1(8) shall not apply to indemnification for a Third Party Claim.

(9) The Parties agree that, from and after Closing, this Article 7 sets out the sole and exclusive manner by which the Parties may seek compensation or other monetary relief hereunder for any breach of representation, warranty or covenant, and is in lieu of any and all other rights and remedies which any Party may have, for any matter in respect of which it may make a claim on account of an Indemnifiable Loss.

7.2 Defence of Claim

(1) If any Indemnitee receives notice of the assertion of any claim or of the commencement of any claim, action or proceeding made or brought by any Person who is not an Indemnitee (a **"Third Party Claim"**) with respect to which indemnification is to be sought from an Indemnifying Party, the Indemnitee shall give such Indemnifying Party reasonably prompt written notice thereof, but in any event such notice shall not be given later than twenty (20) calendar days after the Indemnitee's receipt of notice of such Third

Party Claim. Such notice shall describe the nature of the Third Party Claim in reasonable detail and shall indicate the amount or, if the amount is not then determinable, an appropriate and reasonable estimate of the potential amount of the Indemnifiable Loss that has been or may be sustained by the Indemnitee. The Indemnifying Party will have the right to participate in or, by giving written notice to the Indemnitee, to elect to assume the defence of any Third Party Claim at such Indemnifying Party's expense and by such Indemnifying Party's own counsel, provided, however, that:

(a) counsel for the Indemnifying Party shall conduct the defence of such Third Party Claim in a manner reasonably satisfactory to the Indemnitee;

(b) if the defendants to the Third Party Claim include both the Indemnifying Party and the Indemnitee and the Indemnitee shall have reasonably concluded that there may be legal defences available to it which are different from, additional to or inconsistent with those available to the Indemnifying Party, the Indemnitee shall have the right to select separate counsel to participate in the defence of the Third Party Claim and the reasonable fees and disbursements of such counsel shall he considered Indemnifiable Losses for the purpose of this Agreement.

Notwithstanding the provisions of this Section 7.2(1), where a Third Party Claim relates to Taxes, the Indemnifying Party will have the right to participate in or, by giving written notice to the Indemnitee, to elect to assume jointly with the Indemnitee the defence of such a Third Party Claim relating to Taxes and both the Indemnifying Party and the Indemnitee shall act reasonably in connection with the conduct and management of such defence. The provisions of this Section 7.2(1) shall otherwise apply *mutatis mutandis*.

(2) If the Indemnifying Party assumes the defence in accordance with this Section 7.2(2) the Indemnitee shall co-operate in good faith in such defence at such Indemnitee's own expense. If an Indemnifying Party elects not to assume control of the defence of any Third Party Claim, the Indemnitee shall be entitled to assume such control and may compromise or settle such Third Party Claim (in any manner that it determines appropriate, acting reasonably), over the objection of the Indemnifying Party, which settlement or compromise shall conclusively establish the Indemnifying Party's liability pursuant to this Agreement and the Indemnifying Party shall be bound by the results obtained by the Indemnitee with respect to such Third Party Claim.

(3) If, within twenty (20) calendar days after an Indemnitee provides written notice to the Indemnifying Party of any Third Party Claims, the Indemnitee receives written notice from the Indemnifying Party that such Indemnifying Party has elected to assume the defence of such Third Party Claim as provided in Section 7.2(1), the Indemnifying Party will not be liable for any legal expenses subsequently incurred by the Indemnitee in connection with the defence thereof except as expressly provided in Section 7.2(1), provided, however, that if the Indemnifying Party fails to take reasonable steps necessary to defend diligently such Third Party Claim within twenty (20) calendar days after receiving notice from the Indemnitee that the Indemnitee believes the Indemnifying Party has failed to take such steps, the Indemnitee may assume its own defence and the Indemnifying Party shall be liable for all reasonable expenses thereof.

(4) Without the prior written consent of the Indemnitee, the Indemnifying Party shall not enter into any settlement of any Third Party Claim which would lead to liability or create any financial or other obligation on the part of the Indemnitee for which the Indemnitee is not entitled to indemnification under this Agreement. The Indemnifying Party shall not settle any Third Party Claim or conduct any legal or administrative proceeding in a manner which would, in the opinion of the Indemnitee, acting reasonably, have a Material adverse impact on the Indemnitee. If a final offer is made to settle a Third Party Claim and the offer creates no liability or financial or other obligation on the part of the Indemnitee for which the Indemnitee is not entitled to indemnification under this Agreement and the Indemnifying Party desires to accept and agree to such offer, the Indemnifying Party shall give written notice to the Indemnitee to that effect. If the Indemnitee fails to consent to such final offer within twenty (20) calendar days after its receipt of such notice, the Indemnifying Party shall be relieved of its obligations to defend such Third Party Claim and the Indemnitee may contest or defend such Third Party Claim at its own expense. In such event, the maximum liability of the Indemnifying Party as to such Third Party Claim will be the amount of such settlement offer plus reasonable costs and expenses paid or incurred by the Indemnitee up to the date of such notice.

(5) If any Third Party Claim is of a nature such that the Indemnitee is required by Applicable Law to make a payment to any Person (a **"Third Party"**) for the purposes of this Section 7.2(5) with respect to such Third Party Claim before the completion of settlement negotiations or related legal proceedings, the Indemnitee may make such payment and the Indemnifying Party shall, forthwith after demand by the Indemnitee, reimburse the Indemnitee for any such payment. If the amount of any liability under the Third Party Claim in respect of which such a payment was made, as finally determined, is less than the amount which was paid by the Indemnifying Party to the Indemnitee, the Indemnitee shall, forthwith after receipt of the difference from the Third Party, pay such difference to the Indemnifying Party.

(6) Except in the circumstances contemplated by Section 7.2(2) or as expressly provided in Section 7.2(5), and whether or not the Indemnifying Party assumes control of the negotiation, settlement or defence of any Third Party Claim, the Indemnitee shall not negotiate, settle, compromise or pay any Third Party Claim except with the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld).

(7) The Indemnitee shall not permit any right of appeal in respect of any Third Party Claim to terminate without giving the Indemnifying Party notice thereof and an opportunity to contest such Third Party Claim.

(8) The Parties shall co-operate fully with each other with respect to Third Party Claims, shall keep each other fully advised with respect thereto (including supplying copies of all relevant documentation promptly as it becomes available) and shall each designate a senior officer who will keep himself informed about and be prepared to discuss the Third Party Claim with his counterparts and with counsel at all reasonable times.

(9) Any claim by an Indemnitee on account of an Indemnifiable Loss which does not result from a Third Party Claim (a **"Direct Claim"**) shall be asserted by giving the Indemnifying Party reasonably prompt written notice thereof, stating the nature and factual basis of the Claim in reasonable detail and indicating the amount, or if the amount is not then determinable, an approximate and reasonable estimate of the potential amount of the Direct Claim, but in any event such notice shall not be given later than twenty (20) calendar days after the Indemnitee becomes aware of such Direct Claim, and the Indemnifying Party shall have a period of twenty (20) calendar days within which to investigate and respond to such Direct Claim. For the purpose of such investigation, the Indemnitee shall make available to the Indemnifying Party the information relied upon by the Indemnitee to substantiate the Direct Claim. If the Indemnitee and the Indemnifying Party agree, at or prior to the expiration of such twenty (20) calendar day period, to the validity and amount of the Direct Claim, the Indemnifying Party shall immediately pay to the Indemnitee the full agreed upon amount of the Direct Claim. If the Indemnifying Party does not respond within such twenty (20) calendar day period, the Indemnifying Party shall be deemed to have accepted the Direct Claim. If the Indemnifying Party rejects such Direct Claim, the Indemnitee will be free to seek enforcement of its right to indemnification under this Agreement and shall be entitled to submit the Dispute to the Dispute arbitration procedure referred to in Section 8.2.

(10) If the amount of any Indemnifiable Loss, at any time subsequent to the making of an indemnity payment in respect thereof, is reduced by recovery, settlement or otherwise under or pursuant to any insurance coverage, or pursuant to any claim, recovery, settlement or payment by, from or against any other entity (including, without limitation, relating to any increase in distribution rates specifically to allow such recovery or from a reduction in taxes), the amount of such reduction, together with any interest earned on such amount, if applicable, less any deductibles, costs or expenses incurred in connection therewith, shall promptly be repaid by the Indemnitee to the Indemnifying Party.

(11) A failure to give timely notice as provided in this Section 7.2 shall not affect the rights or obligations of any Party under this Agreement except if, and only to the extent that, as a result of such failure, the party which was entitled to receive such notice was actually prejudiced.

ARTICLE 8
GENERAL PROVISIONS

8.1 Notices

Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be given by facsimile or other means of electronic communication or by hand-delivery as provided below. Any such notice or other communication, if sent by facsimile or other means of electronic communication, shall be deemed to have been received on the Business Day following the sending, or if delivered by hand, shall be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address

shall also be governed by this Section 8.1. Notices and other communications shall be addressed as follows:

(a) in the case of PW Holdco and PWUL:

Brian Walker, Chair
4548 Ontario St. Unit 2
Beamsville, ON L0R 1B5
Fax: (905) 563-9180

and to:

Caswell and Watson
90 Eglinton Avenue East
Suite 206
Toronto, ON M4P 2Y3
Fax: (416) 484-5342

(b) in the case of NF Holdco and NFHI:

Niagara Falls Hydro Inc.
7447 Pin Oak Drive, P.O. Box 102
Niagara Falls, ON L2E 6S9

Attention: Brian Wilkie, President
Fax: (905) 356-0118

Notwithstanding the foregoing, any notice of arbitration permitted to be given by any Party pursuant to or in connection with any arbitration procedures in paragraph 8.2 (b) may only be delivered by hand. The failure to send or deliver a copy of a notice to counsel shall not invalidate any notice given under this Section 8.1.

8.2 Arbitration Procedures

(1) Disputes: Each Party shall appoint one or more representatives who shall be responsible for administering this Agreement on its behalf and for representing its respective interests in disputes relating to this Agreement ("Disputes"). Any Dispute between the Parties relating to this Agreement that is not resolved between such representatives within ten (10) Business Days of the date that one Party notifies the other Party or Parties of such dispute shall be referred by the Parties' representatives in writing to the senior management of each Party for resolution. Such senior management shall use good faith efforts to resolve the Dispute for a period of up to ten (10) Business Days.

(2) Arbitration: Any Dispute that is not resolved by the procedure set forth in Section 8.2(1) above may, by any Party, be referred to and resolved by arbitration by a single arbitrator

in accordance with the provisions of the Arbitration Act, 1991 (Ontario), subject to the following modifications and additions:

(a) The arbitration shall take place in Niagara Falls, Ontario, and shall be conducted in English;

(b) The arbitration shall be conducted by a single arbitrator having no financial, business or personal interest in the outcome of the arbitration. The arbitrator shall be appointed jointly by agreement of the Parties. In the event the Parties are unable to agree on the appointment of the arbitrator within ten (10) days after notice of a demand for arbitration is given by a Party, then the arbitrator shall be selected pursuant to the provisions of the Arbitration Act, 1991 (Ontario);

(c) The arbitrator shall have the authority to award any remedy or relief that a court could order or grant in accordance with this Agreement including, without limitation, specific performance of any obligation, the issuance of an interim, interlocutory or permanent injunction, or the imposition of sanctions for abuse or frustration of the arbitration process; and

(d) The arbitrator shall have sole and exclusive jurisdiction to examine into, hear and determine all matters and questions of fact and law in respect of which any powers or authority has been conferred upon the arbitrator, including questions of jurisdiction. The arbitral award shall be in writing, stating the reasons for the award and shall be final and conclusive and is not open to appeal, question or review in any court and any determination by the arbitrator made under this Article is hereby ratified and confirmed and is binding upon all persons. No proceedings by or before the arbitrator shall be restrained by injunction, prohibition or other process or proceeding in any court, or are removable by certiorari or otherwise into any court.

8.3 Survival of Representations and Warranties, Covenants and Obligations

Subject to the *Limitations Act*, *2002* (Ontario):

(a) The representations and warranties given or made by any Party in this Agreement or in any certificate or other writing furnished in connection with this Agreement shall survive the Closing for a period of twenty-four (24) months after the Closing Date and shall thereafter terminate and be of no further force or effect, except that (i) any Claim based on fraud or fraudulent misrepresentation, may be brought at any time; and (ii) any representation and warranty as to which a Claim (including a contingent Claim) shall have been asserted during the survival period shall continue in effect with respect to such Claim until such Claim shall have been finally resolved or settled. Each Party shall be entitled to rely upon the representations and warranties of the other Parties set forth in this Agreement, notwithstanding any investigation or audit conducted before or after the Closing Date or the decision of any party to complete the Closing.

(b) The covenants and obligations of the Parties set forth in this Agreement, including the indemnification obligations of NF Holdco and PW Holdco under Article 7, shall survive the Closing indefinitely, unless such covenants and obligations by their terms expire on or before the Closing, and each Party shall be entitled to the full performance thereof by the other Parties without limitation as to time or amount (except as otherwise specifically set forth in this Agreement).

(c) Subject to Sections 8.3(a) and (b), all of the provisions upon which a Claim is made under this Agreement shall survive until such Claim has been disposed of in accordance with this Agreement.

8.4 No Personal Liability Re: Certificates

All certificates delivered by a corporate officer or director of NF Holdco, NFHI, PW Holdco or PWUL, in accordance with this Agreement, shall be delivered in such official capacity without personal liability to any such individual.

8.5 Entire Agreement

This Agreement and the Confidentiality Agreement constitute the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior negotiations, understandings and agreements between the Parties, written or oral, in respect thereof, including the Term Sheet.

8.6 Further Assurances

Each Party hereby covenants and agrees that at any time and from time to time after the Closing Date it will, upon the request of the other Parties, or any one of them, do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered all such further acts, deeds, assignments, transfers, conveyances and assurances as may be required for the better carrying out and performance of all the terms of this Agreement.

8.7 Remedies Cumulative

The rights and remedies of the Parties under this Agreement are cumulative and in addition to and not in substitution for any rights or remedies provided by law. Any single or partial exercise by any Party hereto of any right or remedy for default or breach of any term, covenant or condition of this Agreement does not waive, alter, affect or prejudice any other right or remedy to which such Party may be lawfully entitled for the same default or breach.

8.8 Waiver, Amendment

No modification of or amendment to this Agreement shall be valid or binding unless set forth in writing and duly executed by each of the Parties. No waiver of any provision of this Agreement shall be effective or binding unless made in writing and signed by the Party purporting to give the same and, unless otherwise provided, no such waiver shall constitute a waiver of any other provision of this Agreement nor constitute a continuing waiver, or operate as a waiver of, or estoppel with respect to, any subsequent failure to comply.

8.9 Counterparts

This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same agreement. Counterparts may be executed either in original or facsimile form and the Parties shall accept any signatures received by a receiving facsimile machine as original signatures of the Parties; provided, however, that any Party providing its signature in such manner shall promptly forward to the other Parties an original of the signed copy of this Agreement which was so facsimiled.

8.10 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of Ontario and the laws of Canada applicable therein. The Parties agree that the courts of Ontario shall have exclusive jurisdiction to determine all disputes and claims arising under or pursuant to this Agreement.

8.11 Commercially Reasonable Efforts

The Parties acknowledge and agree that, for all purposes of this Agreement, an obligation on the part of any party to use commercially reasonable efforts to obtain any waiver, consent, approval, permit, licence or other document shall not require such party to make any payment to any person for the purpose of procuring the same, other than payments for amounts otherwise due and payable to such person, payments for incidental expenses incurred by such person and payments required by any applicable law or regulation.

8.12 Time of Essence

Time shall be of the essence hereof.

8.13 Severability

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions hereof and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. In respect of any provision so determined to be unenforceable or invalid, the Parties agree to negotiate in good faith to replace the unenforceable or invalid provision with a new provision that is enforceable and valid in order to give effect to the business intent of the original provision to the extent permitted by law and in accordance with the intent of this Agreement.

8.14 No Partnership

Nothing contained in this Agreement nor any acts of the Parties hereunder shall be deemed to constitute any Party as a partner of any other Party.

8.15 Assignment

The rights of a Party hereunder shall not be assignable without the prior written consent of the other Parties.

8.16 Successors and Assigns

This Agreement shall be binding upon and enure to the benefit of the Parties hereto and their respective successors. Nothing herein, express or implied, is intended to confer upon any person, other than the Parties hereto and their respective successors, any rights remedies, obligations or liabilities under or by reason of this Agreement.

[EXECUTION PAGE FOLLOWS]

::ODMA\PCDOCS\TOR01\3312496\12

IN WITNESS WHEREOF the Parties hereto have duly authorized and executed this Agreement as of the day and year first above written.

NIAGARA FALLS HYDRO HOLDING CORPORATION

By: Suzanne Wilson
Treasurer

By: _____
Name:
Title:

By: _____
Name:
Title:

NIAGARA FALLS HYDRO INC.

By: Suzanne Wilson

By: _____
Name:
Title:

By: _____
Name:
Title:

PENINSULA WEST POWER INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

PENINSULA WEST UTILITIES LIMITED

By: _____
Name:
Title:

By: _____
Name:
Title:

[EXECUTION PAGE TO THE MERGER AGREEMENT]

SHAREHOLDERS AGREEMENT

Dated as of [January 1, 2008]

NIAGARA FALLS HYDRO HOLDING CORPORATION

- and -

PENINSULA WEST POWER INC.

- and -

NIAGARA PENINSULA ENERGY INC.

- and -

SUCH OTHER PERSONS AS MAY BECOME SHAREHOLDERS IN NIAGARA PENINSULA ENERGY INC.

Borden Ladner Gervais LLP
Scotia Plaza, 40 King Street West
Toronto, Ontario
M5H 3Y4

Privileged and Confidential

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Privileged and Confidential

SHAREHOLDERS AGREEMENT

THIS AGREEMENT made as of the **[1st day of January, 2008]**.

AMONG:

NIAGARA FALLS HYDRO HOLDING CORPORATION, a corporation duly incorporated under the *Business Corporations Act* (Ontario) (hereinafter referred to as **"NFHC"**)

- and -

PENINSULA WEST POWER INC., a corporation duly incorporated under the *Business Corporations Act* (Ontario) (hereinafter referred to as **"PWPI"**)

- and -

NIAGARA PENINSULA ENERGY INC., a corporation duly amalgamated under the *Business Corporations Act* (Ontario) (hereinafter referred to as the "**Corporation**")

- and -

SUCH OTHER PERSONS AS MAY FROM TIME TO TIME BECOME SHAREHOLDERS IN THE CORPORATION AND PARTIES HERETO

RECITALS:

A. NFHC was the sole shareholder of Niagara Falls Hydro Inc. ("**NFHI**") an electricity distribution company created pursuant to Section 142 of the *Electricity Act, 1998* (Ontario) (the "**Electricity Act**");

B. PWPI was the sole shareholder of Peninsula West Utilities Limited ("**PWUL**") an electricity distribution company created pursuant to Section 142 of the Electricity Act;

C. NFHC is wholly-owned by Niagara Falls;

D. PWPI is owned by Lincoln, Pelham and West Lincoln;

E. NFHC and PWPI agreed to amalgamate NFHI and PWUL to form the Corporation (the "**Amalgamation**") pursuant to the terms of the Merger Agreement dated **[December 31, 2007]** among NFHC, NFHI, PWPI and PWUL (the "**Merger Agreement**") and the Amalgamation Agreement among NFHC, NFHI, PWPI and PWUL dated **[December 31, 2007]** and the Amalgamation was effective **[January 1, 2008]**;

F. Upon the Amalgamation, NFHC received seven hundred and forty-five (745) common shares in exchange for one hundred (100) common shares in the capital of

NFHI and PWPI received two hundred and fifty-five (255) common shares in exchange for one hundred (100) common shares in the capital of PWUL;

G. The Councils of Lincoln, Pelham and Niagara Falls approved the Amalgamation. The Council of West Lincoln did not approve the Amalgamation.

H. The shareholder agreement of PWPI requires two-thirds (2/3) of the votes cast at a duly constituted meeting of the shareholders of PWPI to approve all shareholder decisions, including amalgamations. With the approval of Lincoln and Pelham, which collectively own 76% of the voting shares of PWPI, at a duly constituted shareholders meeting, the shareholders of PWPI approved the Amalgamation. PWPI, the sole shareholder of PWUL, approved the Amalgamation. The directors of both PWPI and PWUL approved the Amalgamation.

I. The shareholders and directors of NFHC and NFHI approved the Amalgamation.

J. The authorized capital of the Corporation consists of an unlimited number of common hsares of which 1,000 are issued and outstanding.

K. At the date hereof all of the issued and outstanding shares of the Corporation are registered and beneficially owned as follows:

Shareholder	**Corporation Shares**
NFHC	745 common shares
PWPI	255 common shares

L. The parties have agreed to set out in this Agreement their respective rights and obligations with respect to the management and operation of the Corporation and the ownership of shares in the Corporation and with respect to their relationship towards each other; and

M. The operation and management of the Corporation shall be based upon the general objectives and business principles set out in Section 2.1 of this Agreement.

NOW, THEREFORE IN CONSIDERATION OF THE FOREGOING AND OF THE MUTUAL COVENANTS HEREIN CONTAINED, THE PARTIES HERETO AGREE AS FOLLOWS:

ARTICLE 1 - INTERPRETATION

1.1 **Definitions:** Whenever used in this agreement unless there is something in the subject matter or context inconsistent therewith, the following terms shall have these respective meanings:

"**Additional Shareholders**" means such Persons, other than NFHC or PWPI, as may from time to time become shareholders of the Corporation and parties to this Agreement.

"**Affiliate Relationships Code**" means the Affiliate Relationships Code for Electricity Distributors and Transmitters issued by the OEB, as amended from time to time and any replacement code or directive.

"**Agreement**" means this Shareholders Agreement, and includes any agreement which is supplementary to or an amendment or confirmation of this Agreement (and which is entered into in accordance with this Agreement) and any schedules hereto or thereto.

"**Amalgamation**" has the meaning set forth in the Recitals to this Agreement.

"**Applicable Law**" means, collectively, all applicable federal, provincial and municipal laws, statutes, ordinances, decrees, rules, regulations, by-laws, legally enforceable policies, codes, or guidelines, judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, orders, decisions, directives, rulings or awards, and conditions of any grant of approval, permission, certification, consent, registration, authority or licence by any statutory body, self-regulatory authority or other Governmental Authority.

"**Articles**" means the articles of amalgamation of the Corporation in effect on the date hereof.

"**Board**" means the board of directors of the Corporation as elected by the Shareholders from time to time in accordance with the provisions of this Agreement.

"**Business**" means, with respect to the Corporation, the distribution of electricity to the customers of the Corporation and the provision of such ancillary services as may be determined from time to time and such other businesses which may be permitted to be undertaken by the Corporation pursuant to Section 2.3 of this Agreement.

"**Business Day**" means any day except Saturday, Sunday or any day which is a statutory holiday in the Province of Ontario.

"**Chair**" means the director who is appointed chair of the Board from time to time as provided in this Agreement.

"**Council**" means the municipal Council at such time of the Municipalities or of any other municipality which may become a direct or indirect shareholder of the Corporation from time to time.

"**Electricity Act**" means the *Electricity Act, 1998* (Ontario), as amended from time to time and any replacement or successor legislation.

"**Former Director**" has the meaning set forth in Section 4.13.

"**Governmental Authority**" means any government or political subdivision (including without limitation, any municipality or federal or provincial ministry) or quasi-governmental or regulatory agency, authority, board, commission, department or instrumentality of any government or political subdivision, or any court or tribunal including the IESO, OEB and OPA.

"**IESO**" means the Ontario Independent Electricity System Operator and any successor.

"**includes**" means "includes, without limitation" and "including" means "including, without limitation".

"**Information**" has the meaning set forth in Section 14.3.

"**LDC**" means an electricity distribution corporation created pursuant to Section 142 of the Electricity Act and licensed to distribute electricity pursuant to the OEB Act.

"**Lincoln**" means the Town of Lincoln.

"**Municipalities**" means Lincoln, Niagara Falls, Pelham and West Lincoln;

"**Niagara Falls**" means the City of Niagara Falls.

"**Non-Selling Shareholder**" has the meaning set forth in Section 13.5(a).

"**OBCA**" means the *Business Corporations Act* (Ontario), as amended from time to time.

"**OEB**" means the Ontario Energy Board and any successor.

"**OEB Act**" means the *Ontario Energy Board Act*, *1998*, as amended from time to time and any replacement or successor or legislation.

"**Offered Shares**" has the meaning set forth in Section 8.1(a).

"**OPA**" means the Ontario Power Authority and any successor.

"**Ordinary Course of Business**" means the conduct of the Business in the ordinary and usual course and in a manner consistent with the manner in which the Business is carried on as of the date hereof or as may be permitted pursuant to Section 2.3 hereof including as to the nature and scope of the Business and shall include the acquisition of the shares, assets or business of

LDC's and related businesses and the amalgamation of the Corporation with other LDC's.

"**Parties**" means the Shareholders and the Corporation and "Party" means any one of them.

"**Pelham**" means the Town of Pelham.

"**Permitted Transferee**" has the meaning set forth in Section 7.3(a).

"**Person**" means any individual, corporation, partnership, firm, joint venture, syndicate, association, trust, Governmental Authority and any other form of entity or organization.

"**Pro Rata**" means in the same proportion that the number of common shares owned by a Shareholder is to all of the then issued and outstanding common shares of all Shareholders of the Corporation.

"**Prospective Purchaser**" has the meaning set forth in Section 8.3.

"**Purchase Notice**" has the meaning set forth in Section 8.2.

"**Purchase Price**" has the meaning set forth in Section 8.1(a).

"**Right of First Refusal Period**" has the meaning set forth in Section 8.2.

"**Remaining Shareholders**" has the meaning set forth term in Section 8.1(b).

"**Sale Notice**" has the meaning set forth in Section 8.1(a).

"**Selling Shareholder**" has the meaning set forth in Section 8.1(a).

"**Shareholder**" means individually any, and "**Shareholders**" means collectively all, of NFHC and PWPI and any Person to whom any Shares are transferred, or issued, in accordance with the terms of this Agreement, at any time subsequent to the date of this Agreement.

"**Shares**" means common shares of the Corporation.

"**Share Purchase Price**" has the meaning set forth in Section 12.3.

"**Special Resolution**" means a resolution that is submitted to a meeting of the Shareholders called for the purpose of considering the resolution and passed, with or without amendment, at the meeting by at least two-thirds (2/3) of the votes cast.

"**Standstill Period**" means the five (5) year period from the date of this Agreement to and including **[January 1, 2013].**

"**West Lincoln**" means the Township of West Lincoln.

"**Withdrawal Date**" has the meaning set forth in Section 12.4.

"**Withdrawing Shareholder**" has the meaning set forth in Section 12.2.

1.2 **Interpretation:** Unless otherwise defined in this Agreement, words and phrases that have not been defined shall have the meaning ascribed to them in the OBCA.

1.3 **Interpretation Not Affected by Headings:** The division of this Agreement into Articles, Sections, Subsections, Paragraphs, Subparagraphs and Clauses and the insertion of headings are for the convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms "this Agreement", "hereof", "herein", "hereunder" and similar expressions refer to this Agreement and not to any particular Article, Section, Subsection, Paragraph, Subparagraph or Clause or other portion hereof and include any agreement or instrument supplemental or ancillary hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles and Sections are to Articles and Sections of this Agreement.

1.4 **Number and Gender:** Words importing the singular number only shall include the plural and vice versa, words importing the masculine gender shall include the feminine and neuter genders and vice versa.

1.5 **Accounting Principles:** Wherever in this Agreement reference is made to generally accepted accounting principles, such reference shall be deemed to be the generally accepted accounting principles from time to time approved by the Canadian Institute of Chartered Accountants, or any successor institute, applicable as at the date on which such calculation is made or required to be made in accordance with generally accepted accounting principles.

1.6 **Effect of this Agreement:** To the extent that this Agreement specifies that any matters relating to the Corporation may only be or shall be dealt with or approved by, or shall require action by the Shareholders, the discretion and powers of the directors of the Corporation to manage and to supervise the management of the business and affairs of the Corporation with respect to such matters are correspondingly restricted. For greater certainty, the Parties agree that Sections 5.1 and 5.2 of this Agreement are intended to operate as a unanimous shareholders agreement with respect to the Corporation, within the provisions of Section 108(2) of the OBCA.

1.7 **Statutes and Amendments:** Any reference in this Agreement to an agreement, or to a statute, regulation or rule promulgated under a statute or to any provision of an agreement, a statute, regulation or rule shall be a reference to the agreement, statute, regulation, rule or provision, as amended, restated, re-enacted or replaced from time to time.

1.8 **Schedules:** The following schedules are incorporated herein and form part of this Agreement:

Schedule A Valuation Method

ARTICLE 2 - OBJECTIVES, GUIDING PRINCIPLES AND PERMITTED BUSINESS ACTIVITIES

2.1 **Guiding Principles and Objectives:** The Parties acknowledge and recognize the following guiding principles and objectives of the Corporation and the intention of the Shareholders that the Corporation be managed in a manner consistent with these guiding principles and objectives:

(a) maintain local presence and control over the management of electricity services and rates;

(b) improve electricity distribution services to local customers;

(c) improve the utilization of existing resources;

(d) explore business options that achieve new economics of scale and avoid duplication of services and costs to the customer;

(e) pursue strategic partnerships that contribute to a strengthened corporate presence and voice – locally and provincially;

(f) improve corporate flexibility to better respond to emerging business opportunities and complexities in the electricity market; and

(g) increase corporation value to maximize Shareholder wealth.

2.2 **Financial Policies, Risk Management and Strategic Plan:** The Shareholders expect that the Board will establish policies to:

(a) Capital Structure - develop and maintain a prudent financial and capitalization structure for the Corporation consistent with industry norms and sound financial principles and established on the basis that the Corporation is a self-financing entity;

(b) Distribution Rates – ensure the establishment of just and reasonable electricity distribution rates for the regulated electricity distribution business of the Corporation which are:

(i) consistent with similar utilities in comparable growth areas and as may be permitted under the OEB Act;

(ii) intended to enhance the value of the Corporation; and

(iii) consistent with the encouragement of economic development and activity for each of the Shareholders.

It is the intention of the parties to harmonize the distribution rates of NFHI and PWUL conditional on receiving all necessary regulatory approvals;

(c) Dividends – the establishment of a dividend policy, consistent with prudent financial practices, for the Corporation, all with the intention of providing the Shareholders with a reasonable rate of return on their investment while maintaining reasonable rates for customers;

(d) Risk Management - manage all risks related to the Business conducted by the Corporation through the adoption of appropriate risk management strategies and internal controls consistent with industry norms; and

(e) Strategic Plan - develop a long range strategic plan for the Corporation which is consistent with:

(i) the guiding principles and objectives in Section 2.1;

(ii) the maintenance of a viable Business; and preservation of the value of the Business for the Shareholders.

2.3 **Permitted Business Activities:**

The Corporation may engage in the business activities which are permitted by Applicable Law from time to time, including the Electricity Act and OEB Act and as the Board may authorize. In so doing, the Corporation shall conform to all requirements of the OEB, the IESO, the OPA and all other applicable Governmental Authorities.

ARTICLE 3 - IMPLEMENTATION OF THIS AGREEMENT

3.1 **Carrying out of the Agreement:**

(a) The Shareholders shall at all times act and vote their Shares to carry out and cause the Corporation to carry out the provisions of this Agreement.

(b) To the extent that each Shareholder is permitted by Applicable Law to bind its nominees to do so, the nominee directors of the Shareholder will act and vote as directors in order that the purpose, intent and provisions of this Agreement shall be carried out.

(c) The Corporation confirms its knowledge of this Agreement and will carry out and be bound by the provisions of this Agreement to the full extent that it has the capacity and power at law to do so.

3.2 **Endorsement on Share Certificates:** Share Certificates of the Corporation shall bear the following language either as an endorsement or on the face thereof:

> "The shares represented by this certificate are subject to all the terms and conditions of an agreement made as of **[January 1, 2008]**, a copy of which is on file at the registered office of the Corporation."

ARTICLE 4 - DIRECTORS AND OFFICERS

4.1 **Number of Directors**:

(a) The Articles of the Corporation shall provide for the Board to consist of a minimum of four (4) directors and a maximum of twelve (12) directors.

(b) The initial Board shall consist of eight (8) directors.

4.2 **Nomination of the Initial Directors:** Subject to Sections 4.4, 4.6 and 4.8 , NFHC shall be entitled to nominate four (4) directors and PWPI shall be entitled to nominate four (4) directors and thereafter each of NFHC and PWPI shall be entitled to nominate an equal number of directors. Directors shall hold office until such time as their successors are elected by the Shareholders.

4.3 **Election of Directors:** The Shareholders shall at all times act and vote their Shares to elect as directors of the Corporation the individuals nominated as directors by each Shareholder, and, if required by a Shareholder, to remove such director(s). The Shareholders shall at all times act and vote their Shares to maintain the equal representation of both NFHC and PWPI on the Board.

4.4 **Changing the Number of Directors:** In the event that the Shareholders desire to increase or decrease the number of directors serving on the Board, the Shareholders shall elect such directors, as determined by the Shareholders, in order to maintain the equal representation of both NFHC and PWPI on the Board.

4.5 **Qualification of Directors:**

(a) In addition to the requirements of the OBCA, the qualifications of candidates for the Board shall, where possible, include the following:

(i) commercial experience, sensitivity and acumen;

(ii) time availability;

(iii) corporate finance; accounting experience;

(iv) corporate governance experience;

(v) market development experience;

(vi) industry knowledge including, but not limited to, knowledge of competitive energy or telecommunications markets;

(vii) independent, objective and sound of judgment;

(viii) personal integrity and honesty;

(ix) knowledge of public policy and government regulation issues relating to the Corporation and the electricity industry;

(x) knowledge and experience concerning environmental matters, labour relations and occupational health and safety issues;

(xi) knowledge of the local communities;

(xii) awareness of public policy issues related to the Corporation;

(xiii) business expertise, including marketing, product development, mergers and acquisitions and/or retail experience;

(xiv) experience on boards of significant commercial corporations, preferably with revenues of $10 million annually or more; and

(xv) knowledge and experience with risk management strategy.

(b) Preference may be given to qualified candidates for the Board who are residents of the Municipalities; however, non-residents of the Municipalities shall not be excluded from serving as members of the Board.

4.6 **Affiliate Relationships Code:** The composition of the Board shall comply with the provisions of the Affiliate Relationships Code, as applicable, unless an exemption from compliance applicable to the Corporation has been provided by the OEB and is in effect.

4.7 **Chair:** The Chair shall be selected by the Board from among the directors and shall preside at each meeting of the Board. In the absence of the Chair, the chairman of the meeting shall be selected by the directors in attendance at such meeting.

4.8 **Term of Directors:**

(a) Each director of the Corporation shall be appointed for a term which may be from one (1) to three (3) years as provided in the by-laws of the Corporation.

(b) A director may be appointed for successive terms in the discretion of the Shareholder appointing such director.

4.9 **Removal of Directors:** Section 122 of the OBCA does not apply to the removal of directors from the Board. Each Shareholder shall be entitled in its discretion to cause any of the directors nominated by it to be removed and to nominate and have an

individual elect a successor or successors, as the case may be, by providing a direction in writing to the Corporation and to the other Shareholders who shall elect such replacement director or directors. Upon the resignation or removal of a director from the Board, the Shareholder that nominated such director shall use reasonable efforts to obtain and deliver to the Corporation a resignation and release from such director in a form satisfactory to the Corporation.

4.10 **Voting:**

(a) All matters to be determined by the Board shall be determined by a majority vote of directors at a duly convened meeting of the Board and, in case of an equality of votes, the matter shall not be approved and the chairman of the meeting shall not be entitled to a second or casting vote.

(b) Notwithstanding Section 4.10(a) above, in lieu of a meeting of the directors, the consent of the directors with respect to any matter may be evidenced by a resolution in writing (which may be in counterparts) signed by all of the directors.

4.11 **Meeting of Directors:**

(a) The Board shall meet at least once each financial quarter at a time and place to be determined by the Chair. Additional meetings of the Board may be called by the Chair or any other director by notice in writing to every other director of the time, place and purpose of the meeting of the Board and the matters to be considered.

(b) All meetings of the Board shall, unless held by telephone or video conference, be held within the Province of Ontario.

(c) Any one or more of the directors may participate in a meeting of the Board by any telephonic or video device which permits all participants in the meeting to communicate with each other simultaneously and instantaneously, and such participation shall be deemed to constitute attendance at the meeting of the Board for the purpose of this Section 4.11. The Chair may determine that any meeting of the Board may be held by telephone or video conference.

(d) At least seven (7) Business Days prior to each meeting, each director shall be notified in writing of the time, place and purpose of the meeting of the Board and the matters to be considered.

(e) A director may waive notice of any meeting of the Board by an instrument in writing delivered to the Secretary of the Corporation.

4.12 **Quorum – Meetings of Directors**

(a) A quorum for a meeting of the Board shall consist of a majority of the total number of elected directors, (rounded up to the next whole number) provided that, so long as NFHC and PWPI are the only Shareholders of the

Corporation, at least one (1) director who is a nominee of NFHC and at least one (1) director who is a nominee of PWPI must be present at all meetings of the Board.

(b) If a quorum of directors is not present within thirty (30) minutes after the time appointed for a meeting of the Board, the meeting shall be adjourned to a date not less than five (5) and not more than fifteen (15) Business Days subsequent to the date originally set for the meeting, as the directors present at the meeting may determine.

(c) At least two (2) Business Days prior written notice shall be provided to all of the directors of the date for the meeting adjourned pursuant to Section 4.12(b).

(d) If a quorum is not present at such adjourned meeting, the Secretary of the Corporation shall forthwith call a further adjourned meeting of the Board, to be held not later than five (5) Business Days after the previously adjourned meeting was to be held and shall provide at least two (2) Business Days prior written notice thereof to the Shareholders. The Shareholders shall cause their respective nominee directors to attend, (or shall remove their nominee directors and nominate directors to be elected as replacement directors in accordance with Section 4.9 and cause such replacement directors to attend), the further adjourned meeting.

4.13 **Vacancies:** In the event of any vacancy occurring on the Board by reason of the death, disqualification, inability to act or resignation of any director (the "**Former Director**"), the Shareholder entitled to nominate the Former Director shall nominate another individual to replace the Former Director in order to fill such vacancy as soon as reasonably possible, and the Shareholders shall vote their Shares to elect such nominee accordingly.

4.14 **Insurance:** The Corporation shall acquire and maintain insurance coverage for the directors and officers of the Corporation as the Board may determine from time to time. In the event that such insurance coverage ceases to be available to the directors for any reason, each Shareholder shall be responsible for insuring its own nominees.

4.15 **Auditor:** Crawford, Smith, and Swallow shall be appointed as the initial auditor of the Corporation and shall hold office until such time as the Shareholders select a replacement.

4.16 **Corporate Governance Matters:** Subject to the provisions of Article 5, the Board shall supervise the management of the business and affairs of the Corporation and, in so doing, shall act honestly and in good faith with a view to the best interests of the Corporation and each director shall exercise the same degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

4.17 **Initial Senior Executive Arrangements:**

(a) The Parties acknowledge and agree Brian Wilkie shall be the initial President and Chief Executive Officer of the Corporation.

(b) In addition to the senior executive arrangements provided in Section 4.17(a) the Board shall appoint such other officers of the Corporation as the Board may determine.

ARTICLE 5 - APPROVAL OF CERTAIN CORPORATE ACTIONS

5.1 **Unanimous Approval by Shareholders:** Subject to Section 5.3, unless first approved by an unanimous resolution of Shareholders, either adopted at a meeting of the Shareholders called for that purpose or evidenced by a resolution in writing signed by all of the Shareholders, no action shall be taken by the Corporation with respect to any of the following matters:

(a) Amalgamating, consolidating, reorganizing or merging the Corporation with another entity;

(b) Create new classes of shares;

(c) Issue, or enter into any agreement to issue, any shares of any class, or any securities convertible into any shares of any class, of the Corporation or grant any option or other right to purchase any shares or securities convertible into such shares;

(d) Amend the rights, restrictions or privileges of any Shares of the Corporation;

(e) Disposing of or encumbering all or substantially all of the assets of the Corporation;

(f) Changing the dividend policy for the Corporation;

(g) Any amendment to the provisions of this Agreement regarding proportional representation of the Shareholders on the Board or the rights of Shareholders to nominate members of the Board;

(h) Entering into any partnership, joint venture or other business venture that would involve the expenditure or investments of funds by the Corporation outside of the Ordinary Course of Business or that would change the status of the Corporation for taxation purposes, under the Electricity Act or the *Income Tax Act* (Canada), *Corporations Tax Act* (Ontario) or other Applicable Law;

(i) Changing the capitalization policy or the financing policy for the Corporation;

(j) Acquire any electricity distribution business outside of the municipal boundaries of the Municipalities or otherwise acquiring shares in another corporation;

(k) Making loans or providing financial support to a Shareholder, an employee or a person not at arm's length to a Shareholder; or

(l) Any amendment, assignment or termination of any agreement among the Corporation, Niagara Power Inc., Niagara West Transformation Corporation ("**NWTC**"), and/or PWPI regarding the administration and operation of NWTC and its transformation station.

5.2 **Special Resolution by Shareholders:** Subject to Section 5.3, unless first approved by a Special Resolution of the Shareholders, adopted at a meeting of the Shareholders called for that purpose, no action shall be taken by the Corporation with respect to any of the following matters:

(a) Change the name of the Corporation;

(b) Add, remove or change restrictions on the business of the Corporation;

(c) Amendment of articles or bylaws of the Corporation;

(d) Subject to Section 5.1(g) above regarding proportional representation on the Board, any change in the number of directors of the Corporation;

(e) Redeem, purchase for cancellation or otherwise retire any outstanding shares of the Corporation;

(f) Taking any action to wind-up or dissolve the Corporation;

(g) Taking any bankruptcy or insolvency related actions with respect to the Corporation;

(h) Apply to continue as a corporation in another jurisdiction;

(i) Incurring single project capital expenditures greater than $5 million;

(j) Creating a subsidiary of the Corporation;

(k) Borrowing of money in excess of $5 million;

(l) Becoming contingently liable for the debts or obligations of another person;

(m) Changing the fiscal year end of the Corporation;

(n) Changing the auditors of the Corporation;

(o) Giving security on the Corporation assets except in the ordinary course of business; or

(p) Change in the location of the head office of the Corporation.

5.3 **Additional Shareholders:** In the event that Persons become Shareholders of the Corporation in addition to NFHC and PWPI other than in accordance with Articles 7, 8, 9, 10, 11 and 12 of this Agreement, the parties acknowledge that provisions of this Agreement shall be reviewed and, if required, revised in a manner to be determined by the parties consistent with the guiding principles of the Corporation as described in Section 2.1 of this Agreement.

ARTICLE 6 - REPRESENTATIONS AND WARRANTIES

6.1 **Representations and Warranties by Shareholders.** Each Shareholder represents and warrants to each of the other Shareholders and acknowledges that each of the other Shareholders is relying on these representations and warranties in connection with entering into this Agreement:

(a) that each Shareholder owns beneficially and of record the number of issued and outstanding Shares which is set out opposite its name in Recital E to this Agreement, that those Shares are not subject to any mortgage, hypothec, lien, charge, priority, pledge, encumbrance, security interest or adverse claim, and that no Person has any rights to become a holder or possessor of any of those Shares or of the certificates representing them;

(b) that it is duly incorporated and validly existing under the laws of its jurisdiction of incorporation and that it has the corporate power and capacity to own its assets and to enter into and perform its obligations under this Agreement;

(c) that this Agreement has been duly authorized, executed and delivered by it, and (assuming due execution and delivery by the other Parties) is a legal, valid and binding obligation of it enforceable against it in accordance with its terms;

(d) that the execution, delivery and performance of this Agreement does not and will not contravene the provisions of its articles, by-laws, constating documents or other organizational documents, or the provisions of any contract, agreement or other instrument to which it is a party or by which it may be bound;

(e) that the Shareholder is not a non-resident for purposes of the *Income Tax Act* (Canada); and

(f) that all of the representations and warranties set out in Section 6.1(a) through (f) will continue to be true and correct during the term of this Agreement.

ARTICLE 7 - RESTRICTIONS ON SHARE TRANSFERS

7.1 **Standstill Period - Restricted Sales of Shares:** No Shareholder may sell all or any portion of its Shares without the prior written consent of all of the other Shareholders during the Standstill Period. After the Standstill Period has expired, a Shareholder may only sell, transfer, assign or otherwise dispose of the whole or any part of its Shares in accordance with this Agreement.

7.2 **Agreement Binding on Transferees:** No Shares of the Corporation shall be effectively issued, sold, assigned, transferred, disposed of or conveyed, by a Shareholder to any Person except in accordance with this Agreement and until the proposed transferee or purchaser executes and delivers to the Parties hereto an agreement to the same effect as this Agreement and any further agreement with respect to the Corporation to which the Shareholders are then, or are then required to be, a party. Upon the proposed transferee or purchaser so doing, such agreements shall enure to the benefit of and be binding upon all of the Parties to them as if all had executed and delivered the same agreements at the same time.

7.3 **Permitted Transferees:**

(a) Subject to the restrictions on transfer or sale in Section 7.1 and 7.2 hereof, a Shareholder may, without the consent of the other Shareholders, transfer any or all of the Shares owned by it to any Person (hereinafter in this Section 7.3 referred to as a "**Permitted Transferee**") provided that the Permitted Transferee is wholly-owned by such Shareholder or, if such Shareholder is a corporation, the Permitted Transferee is wholly-owned by the Controlling Shareholder of such Shareholder and provided that prior to any such transfer:

(i) the Permitted Transferee shall undertake in writing, by signing a counterpart of this Agreement, to be bound by the terms and conditions of this Agreement; and

(ii) the Controlling Shareholder of such Permitted Transferee represents, warrants, and undertakes in writing that it shall wholly own such Permitted Transferee for as long as such Permitted Transferee holds Shares of the Corporation.

(b) In the event that the transferee of the Shares ceases to be a Permitted Transferee for the purposes of this Section 7.3 then the Shares shall be promptly transferred back to the Shareholder.

7.4 **Pre-emptive Right**:.

(a) Except as expressly provided in this Agreement, if any additional Shares or other securities of the Corporation are approved for issue or if any other options or rights to purchase or subscribe for securities of the Corporation are approved for grant none of those Shares or other securities of the Corporation shall be issued by the Corporation, and none of those options or other rights

shall be granted, at any time after the date of this Agreement, except in compliance with this Section 7.4.

(b) If the Corporation proposes to issue any Shares or other securities of the Corporation (in this Section 7.4, the "**Affected Securities**"), the Corporation shall give notice (an "**Issue Notice**") to the Shareholders of the proposed issuance. The Issue Notice shall constitute an offer for subscription by each of the Shareholders of that number of the Affected Securities (in this Section 7.4, its "**Proportionate Entitlement**") which bear the same relationship to the total number of Affected Securities as the number of issued and outstanding Shares held by each such Shareholder bears to the total number of issued and outstanding Shares (as reflected on the securities registers of the Corporation) at the date of the Issue Notices (in this Section 7.4, the "**Notice Date** ") at the subscription price determined by the Board for all those Affected Securities. Each Issue Notice shall:

(i) be made in writing by the Secretary and be made concurrently to all Shareholders in the same manner (whether by delivery, prepaid courier service or facsimile);

(ii) contain a description of the terms and conditions relating to the Affected Securities, the price at which the Affected Securities are offered and the date on which the purchase of the Affected Securities by the Shareholders is to be completed; and

(iii) state that any Shareholder that wishes to subscribe for less than its Proportionate Entitlement shall, in its notice of subscription, specify the number of Affected Securities (up to its Proportionate Entitlement) that it wishes to subscribe for.

The offer constituted by each Issue Notice shall be irrevocable and shall remain open for acceptance by the Shareholders for a period of thirty (30) days after the Notice Date.

(c) Each of the Shareholders shall have the right, exercisable by notice given to the Corporation within the period during which the offer constituted by the Issue Notice is open for acceptance under Section 7.4(b), to accept the offer constituted by the Issue Notice to subscribe for its Proportionate Entitlement of the Affected Securities or, if it wishes to subscribe for less than its Proportionate Entitlement, to indicate how many Affected Securities (up to its Proportionate Entitlement) it wishes to subscribe for. If no notice is given by a Shareholder under this Section 7.4(c), that Shareholder shall be deemed to have rejected the offer made available to it to subscribe for Affected Securities.

(d) If any of the Shareholders does not agree to purchase all of its Proportionate Entitlement of the Affected Securities or is deemed to have rejected the offer made available to it to subscribe for Affected Securities (in this Section 7.4, a

"**Declining Offeree**"), the Corporation shall forthwith so notify in writing (in this Section 7.4, the "**Additional Notice**") each of the other Shareholders which has accepted the offer to subscribe for not less than its Proportionate Entitlement of the Affected Securities (in this Section 7.4, a "**Purchasing Shareholder**"). Each of the Purchasing Shareholders shall have the right to subscribe for that number or any part thereof, of the Affected Securities that have not been accepted for subscription by the Declining Offerees (the "**Unsubscribed Securities**") which bears the same relationship to the total number of Unsubscribed Securities as the number of Shares held by each such Purchasing Shareholder bears to the total number of Shares by all Purchasing Shareholders (as reflected on the securities registers of the Corporation) at the date of the Additional Notice. Any Purchasing Shareholder that receives an Additional Notice shall have the right, exercisable by notice given to the Corporation within a period of ten (10) days after deemed receipt of that Additional Notice pursuant to Section 15.1, to agree that it will purchase the number of Unsubscribed Securities which it is entitled to purchase or any lesser number thereof specified by it in that notice. If no notice is given by a Purchasing Shareholder under this Section 7.4 within that ten (10) day period, that Purchasing Shareholder shall be deemed to have rejected the offer made available to it to purchase any Unsubscribed Securities. No Shareholder shall be obliged to purchase any Affected Securities in excess of the number indicated in its subscription.

(e) If any Affected Securities of any issue are not subscribed for prior to the expiry of the last applicable period pursuant to Sections 7.4(c) and 7.4(d), the Corporation may offer those unsubscribed for Affected Securities within a period of ninety (90) days after the expiration of the last applicable period pursuant to Sections 7.4(c) and 7.4(d) to any Person, but the price at which those Affected Securities may be issued shall not be less than the subscription price offered to the Shareholders and the terms of payment for those unsubscribed for Affected Securities shall not be more favourable to that Person than the terms of payment offered to the Shareholders.

(f) If the Corporation proposes to grant an option or other right for the purchase of or subscription for Affected Securities, that option or other right shall also be made available to Shareholders in accordance with Sections 7.4(b) through 7.4(e).

(g) The Corporation shall be entitled to issue additional Shares without complying with the provisions of this Section 7.4 when those Shares are being issued on the exercise of existing options or rights to purchase or subscribe for Shares.

ARTICLE 8 - RIGHT OF FIRST REFUSAL

8.1 **First Right of Refusal:**

(a) Any Shareholder (hereinafter in this Article 8 referred to as the "**Selling Shareholder**") who desires to transfer or sell all, but not less than all, of its Shares (hereinafter in this Article 8 referred to as the "**Offered Shares**") shall give notice of such proposed sale (hereinafter in this Article 8 referred to as the "**Sale Notice**") to the Corporation and to the other Shareholders and shall set out in the Sale Notice the terms upon which and the price at which it desires to sell the Offered Shares (such price being hereinafter in this Article 8 referred to as the "**Purchase Price**"). A Shareholder selling Shares under this Section 8.1 must sell all, and not less than all, of its Offered Shares, unless the other Shareholders otherwise agree.

(b) Upon the Sale Notice being given, the other Shareholders (hereinafter in this Article 8 referred to as the "**Remaining Shareholders**") shall have the right to purchase all, but not less than all, of the Offered Shares for the Purchase Price on a Pro Rata basis as described in Section 8.2.

8.2 **Exercise of Right of First Refusal:** The Remaining Shareholders shall have the option, exercisable by giving written notice of the exercise of such option (hereinafter in this Article 8 referred to as the "**Purchase Notice**") to the Selling Shareholder and the Corporation within ninety (90) days (hereinafter in this Article 8 referred to as the "**Right of First Refusal Period**") subsequent to the date of deemed receipt, pursuant to Section 15.1 hereof, by the Remaining Shareholders of the Sale Notice, to purchase all but not less than all of the Offered Shares, on a Pro Rata basis, determined on the basis of the ratio of the number of Shares owned by each Remaining Shareholder to the number of Shares owned by all Remaining Shareholders at the Purchase Price and the terms set forth in the Sale Notice. If all the Offered Shares have not been purchased by the Remaining Shareholders then the remaining Offered Shares shall be offered to those Remaining Shareholders which have purchased Offered Shares on a Pro Rata basis until all of the Offered Shares have been purchased. The closing of the sale of the Offered Shares shall occur on the first Business Day following the expiry of the sixty (60) day period following the date of deemed receipt, pursuant to Section 15.1 hereof, by the Remaining Shareholders and the Corporation of the Purchase Notice or, if the completion of such sale requires the prior approval of or notice to a third Person or Governmental Authority under Applicable Law or any instrument or agreement, within thirty (30) Business Days after receipt of such approval or required period of notice or on such later date as may be agreed by the Parties.

8.3 **Sale of Shares:** In the event that the Remaining Shareholders do not exercise their right of first refusal pursuant to Section 8.2, the rights of the Remaining Shareholders, subject as hereinafter provided, to purchase the Offered Shares shall forthwith terminate and the Selling Shareholder, subject to the restrictions on transfer or sale specified in Section 13.5 hereof, may sell the Offered Shares to any Person (the "**Prospective Purchaser**") within ninety (90) days after the termination of the Right of First Refusal Period, for a price not less than the Purchase Price and on other terms no more favourable to the Prospective Purchaser than those set forth in the Sale Notice, provided that the Prospective Purchaser agrees prior to such transaction to be

bound by this Agreement and to become a party hereto in place of the Selling Shareholder with respect to the Offered Shares. If the Offered Shares are not sold within such ninety (90) day period, or, if the completion of such sale requires the prior approval of or notice to a third Person or Governmental Authority under Applicable Law or any instrument or agreement, within thirty (30) Business Days after receipt of such approval or any required period of notice, on such terms, the rights of the Remaining Shareholders pursuant to Sections 8.1 and 8.2 shall again take effect and so on from time to time.

8.4 **Moratorium on Sales While Purchase Offer Outstanding:** Once a Shareholder gives a Sale Notice pursuant to Section 8.1 hereof, for a period of one (1) year, no other Shareholder shall be entitled to give a Sale Notice with respect to Shares until such time as the Offered Shares are either sold to the Remaining Shareholders, or a Prospective Purchaser, as the case may be, in accordance with the terms of this Article 8 or the sale of such Shares to the Prospective Purchaser does not occur within the time limits prescribed in Section 8.3. No Shareholder may proceed with any sale of any of the Shares owned by it without complying with the relevant provisions of this Agreement.

ARTICLE 9 – TAG-ALONG/DRAG ALONG RIGHTS

9.1 **Tag-Along Rights**:

(a) In the event that a Shareholder, or Shareholders together, owning a majority of the Shares (the "Majority Shareholder") proposes to sell all of its Shares (the "**Offered Majority Shares**") to an Arm's Length third party (the "**Third Party**") pursuant to Section 8.3, then the Majority Shareholder shall, within thirty (30) days following the expiry of the ninety (90) day period referred to in Section 8.3 of the Corporation, give written notice (the "**Tag-Along Notice**") of the identity of the Third Party and the price and other material terms of the transaction (which shall be consistent with the requirements of Section 8.1) to the owners of less than fifty percent (50%) of the Shares (the "Minority Shareholders"). The Minority Shareholders (each a "Minority Selling Shareholder") may, not later than ninety (90) Business Days after receipt of the Tag-Along Notice, deliver to the Majority Shareholder a notice in writing invoking the provisions of this Section 9.1 (a "**Tag-Along Demand**"). The delivery by a Minority Selling Shareholder of a Tag-Along Demand shall be irrevocable and shall bind such Minority Selling Shareholder to sell all, but not less than all, of the Shares owned by such Minority Selling Shareholder(the "**Tag-Along Shares**"), in accordance with the provisions of this Section 9.1.

(b) If a Minority Shareholder delivers a Tag-Along Demand, then, before completing any sale, the Majority Shareholder shall cause the Third Party to deliver to each Minority Selling Shareholder a bona fide offer in writing (the "**Tag-Along Offer**") to purchase the Tag-Along Shares from such Minority

Selling Shareholder. The Tag-Along Offer will be binding upon the Third Party and shall contain only such terms and conditions as are identical to those upon which the Majority proposes to sell to the Third Party the Offered Majority Shares pursuant to Section 8.3, provided that the offer price per Share, which shall be specified in the Tag-Along Offer, shall be the same consideration as the consideration per Share at which the Majority Selling Shareholder proposes to sell to the Third Party the Offered Majority Shares pursuant to Section 8.3.

(c) The closing date and other closing arrangements for the purchase and sale transaction between the Majority Shareholder and the Third Party shall be specified in the Tag-Along Offer and shall be the same, *mutatis mutandis*, as those specified between the Third Party and the Minority Shareholder.

9.2 **Drag-Along Rights**:

(a) In the event that the Majority Shareholder proposes to sell the Offered Majority Shares to a Third Party pursuant to Section 8.3 and a Minority Shareholder (a "Non-Selling Minority Shareholder)(has not exercised its Tag Along rights under Section 9.1, then the Majority Shareholder may, by written notice to the Non-Selling Minority Shareholders delivered within thirty (30) days following the expiry of the ninety (90) day period referred to in Section 9.1, accompanied by an irrevocable offer (the "**Drag-Along Offer**") from the Third Party to the Non-Selling Minority Shareholders to purchase, for a consideration that is the same as the consideration per Share at which the Majority Shareholder proposes to sell the Offered Majority Shares to the Third Party pursuant to Section 8.3, the Shares owned by the Non-Selling Minority Shareholders (the "**Dragged Shares**"), require the Non-Selling Minority Shareholder to sell to the Third Party all such Dragged Shares at the price specified in the Drag-Along Offer.

(b) The delivery by the Majority Shareholder of an irrevocable Drag-Along Offer shall bind the Non-Selling Minority Shareholder to sell the Dragged Shares. The date on which the sale is to close and the other closing arrangements (which shall be the same, *mutatis mutandis*, as those for the purchase and sale between the Third Party and the Majority Shareholder) shall be as specified in the Drag-Along Offer. Except as specifically provided for above, the Drag-Along Offer shall contain only such terms and conditions, if any, as are identical to those pursuant to which the Majority Shareholder proposes to sell to the Third Party the Offered Shares.

ARTICLE 10- BUY-SELL RIGHTS

10.1 **Buy-Sell:**

(1) Any Shareholder (in this Section 10.1, an "**Offeror**") may give notice (a "**Purchase or Sale Notice**") to the other Shareholders (in this Section 10.1, the "**Other**

Shareholders") of a proposed purchase or sale of Shares. The Purchase or Sale Notice shall constitute an offer (the "**Purchase Offer**") by the Offeror to the Other Shareholders to purchase all but not less than all of the issued and outstanding Shares held by the Other Shareholders at the Notice Date at a specified purchase price per Share (the "**Buy-Sell Share Price**") and shall in the alternative constitute an offer (the "**Sale Offer**") by the Offeror to sell all but not less than all of the issued and outstanding Shares held by the Offeror at the date of the Purchase or Sale Notices (in this Section 10.1, the "**Affected Shares**"; and the date of the Purchase or Sale Notices, in this Section 10.1, the "**Notice Date**") at the Buy-Sell Share Price. The Purchase and Sale Notices shall:

(a) be made in writing by the Offeror and be made concurrently to all Other Shareholders in the same manner (whether by delivery, prepaid courier service or facsimile); and

(b) state the Buy-Sell Share Price.

The offers constituted by each Purchase or Sale Notice shall be irrevocable and shall remain open for acceptance by the Other Shareholders for a period of ninety (90) days after the date of the Purchase and Sale Notice.

(2) Each of the Other Shareholders shall have the right, exercisable by notice (in this Section 10.1, an "**Acceptance**") given to the Offeror within the period during which the offers constituted by the Purchase or Sale Notice is open for acceptance under Section 10.1(1) to accept the Purchase Offer and agree to sell to the Offeror all of that Other Shareholder's issued and outstanding Shares or to reject that offer and to accept the Sale Offer and agree to purchase the Affected Shares. If no Acceptance is given by an Other Shareholder under this Section 10.1(2), that Other Shareholder shall be deemed to have accepted the Purchase Offer constituted by the Purchase or Sale Notice.

(3) If one or more of the Other Shareholders accept the Sale Offer, the Purchase Offer shall be deemed to have been rejected by all of the Other Shareholders. If only one Other Shareholder accepts the Sale Offer, that Other Shareholder shall be deemed to have agreed to purchase all of the Affected Shares. If two or more Other Shareholders accept the Sale Offer (in this Section 10.1, the "**Purchasing Shareholders**"), each of such Purchasing Shareholders shall be deemed to have agreed to purchase that number of the Affected Shares which bears the same relationship to the total number of Affected Shares as the number of issued and outstanding Shares held by each such Purchasing Shareholder bears to the total number of issued and outstanding Shares held by all Purchasing Shareholders (as reflected on the securities registers of the Corporation) at the Notice Date.

(4) The completion of all purchases of Affected Shares or of the Shares held by the Other Shareholders, as the case may be, under this Section 10.1 shall occur on the thirtieth (30th) day after the expiry of the period during which the offers constituted by the Purchase and Sale Notice are open for acceptance.

(5) Once a Shareholder gives a Purchase or Sale Notice, no Other Shareholder may give a Purchase or Sale Notice with respect to Shares, until such time as either the Affected Shares are sold to the Purchasing Shareholders or the Shares held by the Other Shareholders are sold to the Offeror pursuant to this Section 10.1.

ARTICLE 11 - PUT OPTION

11.1 **Put Option:**

(a) The Shareholders other than the Majority Shareholder (in this Section 11.1, the "**Other Shareholders**") shall have the irrevocable right and option (the "**Put Option**") by notice to Majority Shareholder and the Corporation with a copy to the other Shareholders, to force the purchase by the Majority Shareholder or the Corporation, of all of the Shares held by that Other Shareholder at a total purchase price equal to the Put Option Price described in Section 11.1(b) below. The closing of the Put Option shall occur on the thirtieth (30th) day after the deemed receipt of notice of the exercise of the Put Option pursuant to Section 15.1 by the Majority Shareholder and the Corporation.

(b) The "**Put Option Price**" for the purposes of this Article 11 shall mean the fair market value of each Share in which the Shareholder is deemed to have exercised the Put Option. Such Put Option Price shall be determined in a manner provided in Schedule A with the sixty (60) days immediately following the date of exercise of the Put Option.

ARTICLE 12 - PURCHASE OF SHARES ON DEEMED WITHDRAWAL

12.1 **Deemed Withdrawal from the Corporation:**

(a) Subject to 12.1(b), for the purposes of this Article 12, a Shareholder shall be deemed to withdraw from the Corporation on that date (the "Withdrawal Date") when such Shareholder,

(i) or its Controlling Shareholder: (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar Applicable Law for the protection of creditors, including, the *Bankruptcy and Insolvency Act* (Canada) and the *Companies Creditors Arrangement Act* (Canada), the *Municipal Affairs Act* (Ontario) or other statute applicable to insolvent municipalities or has such petition filed against it and such petition is not withdrawn or dismissed for sixty (60) days after such filing; (ii) otherwise becomes bankrupt or insolvent (however evidenced); or (iii) is unable to pay its debts as they fall due;

(ii) fails, refuses or neglects to conform materially to any of the terms and conditions of this Agreement, and fails to remedy any such default within thirty (30) days of the deemed receipt, pursuant to Section 15.1 hereof, of a written notice from any other Shareholder giving details of such default; or (iii) has all or any portion of its Shares of the Corporation realized upon by an encumbrancer.

(b) The Shareholders may unanimously agree to waive the provisions of this Article 12 with respect to any Shareholder that would otherwise have been deemed to withdraw from the Corporation pursuant to Section 12.1(a)

12.2 **Purchase of Shares on a Shareholder's Withdrawal from the Corporation:** In the event that a Shareholder is deemed to have withdrawn from the Corporation pursuant to the provisions of Section 12.1(a) hereof and the Shareholders have not agreed to waive the application of this Article 12 in accordance with Section 12.1(b), the Corporation irrevocably agrees to purchase, on the expiry of the ninety (90) day period following the occurrence of such event, all and not less than all of the Shares of the Shareholder which is deemed to have withdrawn from the Corporation (hereinafter in Section 12.2 referred to as the "**Withdrawing Shareholder**") at the Share Purchase Price. The closing of the sale of the Shares of the Withdrawing Shareholder to the Corporation shall take place at the offices of the Corporation at the address designated in Section 15.1 hereof at 10:00 in the morning (Toronto time) on the first Business Day following the expiry of the aforesaid ninety (90) day period. The Share Purchase Price, determined pursuant to Section 12.4 hereof, shall be paid at such closing in Canadian dollars. In the event that the Corporation is not, at the time of such purchase of Shares, capable of fulfilling its obligations to pay for such Shares, either because it cannot do so in compliance with the OBCA, or other Applicable Law to the same effect, the sale of such Shares to the Corporation shall be completed with the balance of the Share Purchase Price for such Shares to be paid by the Corporation as soon as it is lawfully able to do so.

12.3 **Sale of Shares on Deemed Withdrawal from the Corporation:**

(a) The Withdrawing Shareholder hereby irrevocably offers to sell all of its Shares to the Corporation at a price per Share (hereinafter in this Article 12 the "the Share Purchase Price") determined in the manner provided in Section 12.4 hereof and Schedule A hereto.

(b) In all of the circumstances provided in Section 12.1(a), the remaining Shareholders shall have the right to require that the Corporation assign to them the right or obligation of the Corporation to purchase any or all of the Shares of a Withdrawing Shareholder and, pursuant to such assignment, the remaining Shareholders shall have the right to purchase such Shares, provided that in the opinion of tax counsel to the Corporation, the Withdrawing Shareholder will suffer no significant prejudice from an income tax perspective as a result of such Shares being purchased by the remaining Shareholders rather than by the Corporation.

(c) In the event that the remaining Shareholders purchase such Shares, they shall be entitled to purchase them on a Pro Rata basis in proportion to their respective holdings of Shares or in any other proportion as they may choose, and the provisions of Section 12.2 of this Agreement shall apply *mutatis mutandis* provided however, that no Shareholder shall be obliged to purchase any such Shares.

12.4 **Share Purchase Price Determination:** The Share Purchase Price for the purposes of this Article 12 shall mean the fair market value of each Share as determined at the Withdrawal Date. Such Share Purchase Price shall be determined in the manner provided in Schedule A hereto within the sixty (60) days immediately following the Withdrawal Date.

12.5 **Cancellation of Shares:** Upon the acquisition of any Shares by the Corporation pursuant to this Article 12 of this Agreement, such Shares shall be cancelled and shall not be reissued.

ARTICLE 13 - PROVISIONS APPLICABLE TO SALES OF SHARES PURSUANT TO THIS AGREEMENT

13.1 **Application to All Sales:** Except as, or in addition to, what may otherwise be provided in this Agreement, this Article 13 shall apply to any sale of Shares effected pursuant to the provisions of this Agreement.

13.2 **Closing:** The closing of all sales of Shares effected pursuant to this Agreement shall take place at the offices of the Corporation at the address designated in Section 15.1 hereof, at 10:00 in the morning (Toronto time) on the date stipulated, either pursuant to the provisions hereof or pursuant to any agreement executed in connection with any such sale, as the date on which such closing is to occur.

13.3 **Cancellation of Share Certificates:** The President of the Corporation, or such other officer as may be designated by resolution of the directors of the Corporation shall attend all closings of any such sale of Shares and shall deliver to the Corporation for cancellation share certificates evidencing Shares which are to be sold and shall take custody of new share certificates, if any, issued in replacement of such cancelled share certificates so that at all times the Corporation shall have custody of share certificates representing all of the Shares.

13.4 **Resignation of Seller's Nominees:** At the closing of any sale of Shares, the Shareholder selling its Shares shall cause to be delivered to the Corporation signed resignations of its nominees as directors of the Corporation, and shall assign and transfer to the purchaser of such Shares, all of its right, title and interest in such Shares.

13.5 **Transfer Taxes and Other Tax Impacts of a Proposed Sale:**

(a) In the event that any proposed sale or transfer of Shares would result or results in tax or an amount in respect of payments in lieu of tax being exigible from the Corporation or any Shareholder other than the Shareholder selling its Shares (the "**Non-Selling Shareholder(s)**"), whether transfer tax, income tax, capital tax or other tax (and including any taxes or related expenses resulting from the Corporation no longer being tax exempt pursuant to Section 149(1)(d.6) of the *Income Tax Act* (Canada)), all such tax and expenses shall be an expense to the purchaser which shall indemnify the Corporation with respect thereto, and notwithstanding any other provision of this Agreement to the contrary, the proposed sale or transfer shall not be completed unless all such tax and expenses of the Corporation or any Non-Selling Shareholder are first paid in full by the purchaser ; provided that if a proposed sale or transfer is pursuant to the Article 11 Put Option or the Article 12 Deemed Withdrawal, any eligible tax is payable by the Selling Shareholder and the provisions above shall apply *mutatis mutandis*.

(b) A Shareholder selling Shares to any Person shall, as required by the Electricity Act or any other Applicable Law, pay all transfer taxes payable under the Electricity Act in respect of such sale such that the sale shall not be void.

13.6 **Additional Provisions: Loans, Guarantees:** In conjunction with any sale of all Shares:

(a) if the Shareholder selling all of its Shares is indebted to the Corporation, the Corporation may, at its option, require such Shareholder to repay in full all indebtedness which it owes to the Corporation on or before the closing of such sale of Shares;

(b) if the Corporation is indebted to the Shareholder selling all of its Shares, the Shareholder selling Shares may, at its option, require the Corporation to repay in full all indebtedness which it owes to such Shareholder on or before the closing of such sale of Shares; and

(c) if the Shareholder selling all of its Shares has provided a guarantee, letter of credit, security or other financial assistance to the Corporation, the Corporation shall use its commercially reasonable efforts to replace or release such guarantee, letter of credit, security or other financial assistance within ninety (90) days after the closing of such sale of Shares.

ARTICLE 14 - NON-COMPETITION AND CONFIDENTIALITY

14.1 **Non-Competition:** During the period commencing as of the date of this Agreement and terminating on the expiry of the twelve (12) months following the date on which a Shareholder:

(a) is deemed to withdraw from the Corporation, pursuant to Section 14.1 of this Agreement; or

(b) sells all of its Shares in accordance with this Agreement,

such Shareholder shall not, and shall use its commercially reasonable efforts to ensure that its shareholders do not, individually or in partnership or in conjunction with any Person, as principal, agent, shareholder, consultant or otherwise, directly or indirectly, carry on or be engaged in, or advise, acquire an interest in, or permit its name or any part thereof to be used or employed by an association, syndicate or corporation engaged in or concerned with or interested in, the business of distributing electricity as regulated by the OEB unless the consent of the other Shareholders has first been obtained.

14.2 **Necessary Covenants:** Each Shareholder hereby confirms that all restrictions in this Article 14 are reasonable and valid, that they are necessary for the protection of the Corporation's legitimate interests and that they do not unduly affect their earning capacity, and waive all defences to the strict enforcement thereof.

14.3 **Confidential Information:** The Shareholders hereby acknowledge that they have had and will have access to confidential information and trade secrets concerning the Business, the Corporation, and the Corporation's Affiliates (as defined in the OBCA), if any, and their customers and suppliers (hereinafter in this Article 14 referred to as the "**Information**") and they each undertake and agree that they shall not, and their Controlling Shareholder shall not, directly or indirectly, use, disclose or divulge to any Person or other entity any of the Information otherwise than in the Ordinary Course of Business of the Corporation, and its Affiliated Bodies Corporate and as may be required by Applicable Law or order of any Governmental Authority.

14.4 **Survival of Obligations:** The obligations and covenants in this Article 14 shall survive the termination of this Agreement.

ARTICLE 15 - NOTICES

15.1 **Notices:** Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be given by facsimile or other means of electronic communication or by hand-delivery as provided below. Any such notice or other communication, if sent by facsimile or other means of electronic communication, shall be deemed to have been received on the Business Day following the sending, or if delivered by hand, shall be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address shall also be governed by this Section 11.1. Notices and other communications shall be addressed as follows:

(a) in the case of PWPI:

4548 Ontario Street
Unit 2
Beamsville, ON L0R 1B5

Attention: President
Fax No.: 905-563-0838

(b) in the case of NFHC:

7447 Pin Oak Drive
P.O. Box 120
Niagara Falls, ON L2E 6S9

Attention: President
Fax No.: 905-356-0118

(c) in the case of the Corporation:

7447 Pin Oak Drive
P.O. Box 120
Niagara Falls, ON L2E 6S9

Attention: President
Fax No.: 905-356-0118

Notwithstanding the foregoing, any notice of arbitration permitted to be given by any party pursuant to or in connection with any arbitration procedures in Section 16.2 may only be delivered by hand. Normal communications during the arbitration process itself may be delivered by facsimile, regular mail or by hand-delivery. The failure to send or deliver a copy of a notice to counsel shall not invalidate any notice given under this Section 15.

ARTICLE 16- DISPUTE RESOLUTION

16.1 **Disputes:** Each Shareholder shall appoint one or more representatives who shall be responsible for administering this Agreement on its behalf and for representing its respective interests in disputes relating to this Agreement. Any dispute between Shareholders relating to this Agreement that is not resolved between such representatives within ten (10) Business Days of a date that a Party notifies the other Party of such dispute shall be referred by the Parties' representatives in writing to the senior management of each Shareholder for resolution. Such senior management shall use good faith efforts to resolve the dispute for a period of up to ten (10) Business Days.

16.2 **Arbitration:** If a dispute is not resolved by the procedure set forth in Section 16.1 above, such dispute may, by any Party, be referred to and resolved by arbitration by a single arbitrator in accordance with the provisions of the *Arbitration Act, 1991* (Ontario), subject to the following modifications and additions:

(a) The arbitration shall take place in the Province of Ontario, and shall be conducted in English;

(b) The arbitration shall be conducted by a single arbitrator having no financial, business or personal interest in the outcome of the arbitration. The arbitrator shall be appointed jointly by agreement of the parties to such dispute. In the event the parties to such dispute are unable to agree on the appointment of the arbitrator within ten (10) days after notice of a demand for arbitration is given by a party and agreed to by the other parties to such dispute, then the arbitrator shall be selected pursuant to the provisions of the *Arbitration Act, 1991* (Ontario).

(c) The arbitrator shall have the authority to award any remedy or relief that a court could order or grant in accordance with this Agreement including, without limitation, specific performance of any obligation, the issuance of an interim, interlocutory or permanent injunction, or the imposition of sanctions for abuse or frustration of the arbitration process.

(d) The arbitrator shall have sole and exclusive jurisdiction to examine into, hear and determine all matters and questions of fact and law in respect of which any powers or authority has been conferred upon the arbitrator, including questions of jurisdiction. The arbitral award shall be in writing, stating the reasons for the award and shall be final and conclusive and is not open to appeal, question or review in any court and any determination by the arbitrator made under this Article is hereby ratified and confirmed and is binding upon all persons. No proceedings by or before the arbitrator shall be restrained by injunction, prohibition or other process or proceeding in any court, or are removable by certiorari or otherwise into any court.

ARTICLE 17 - MISCELLANEOUS

17.1 **Termination:** This Agreement shall terminate upon (a) the written agreement of all the Parties hereto to this effect, (b) the bankruptcy, receivership or dissolution of the Corporation, or (c) the ownership of all the Shares of the Corporation by one Shareholder.

17.2 **Successors and Assigns:** This Agreement shall be binding upon, and enure to the benefit of, the Parties hereto and their respective successors and permitted assigns.

17.3 **Assignment:** Except as specifically provided in this Agreement, none of the Parties hereto may assign its rights or obligations under this Agreement without the prior written consent of all of the other Parties hereto.

17.4 **Time is of the Essence:** Time shall be the essence of this Agreement in all respects.

17.5 **Further Assurances:** Each Party hereto shall promptly do, execute, deliver or cause to be done, executed and delivered all further acts, documents and matters in

connection with this Agreement that the other Parties may reasonably require, for the purposes of giving effect to this Agreement.

17.6 **Counterparts:** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument. Counterparts may be executed either in original or telecopied form and the Parties shall accept any signatures received by a receiving telecopy machine as original signatures of the Parties; provided, however, that any Party providing its signature in such manner shall promptly forward to the other Parties an original of the signed copy of this Agreement which was so telecopied.

17.7 **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. The Parties agree that the courts of Ontario shall have exclusive jurisdiction to determine all disputes and claims arising under or pursuant to this Agreement.

17.8 **Amendments and Waivers:**

(a) No amendment to this Agreement shall be valid or binding unless set forth in writing and duly executed by all of the Parties hereto.

(b) No waiver of any breach of any provision of this Agreement shall be effective or binding unless made in writing and signed by the Party purporting to give the same and, unless otherwise provided in the written waiver, shall be limited to the specific breach waived.

17.9 **Severability:** If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part of such provision and all other provisions hereof shall continue in full force and effect.

[EXECUTION PAGE FOLLOWS]

::ODMA\PCDOCS\TOR01\3324422\8

IN WITNESS WHEREOF the Parties hereto have executed this Agreement as of the day first above written.

NIAGARA FALLS HYDRO HOLDING CORPORATION

By: _____
Name:
Title:

By: _____
Name:
Title:

PENINSULA WEST POWER INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

NIAGARA PENINSULA ENERGY INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

[EXECUTION PAGE TO SHAREHOLDERS AGREEMENT]

SCHEDULE A

VALUATION METHOD

In this Schedule, the vendor and the purchaser of the Shares being sold pursuant to Article 11 or Article 12 of this Agreement are called the "Vendor" and the "Purchaser", respectively.

Negotiation. If the value of the Shares must be established pursuant to any provision of this Agreement, then the Vendor and the Purchaser shall negotiate honestly and in good faith to agree upon the fair market value of the Shares and such value as the parties may agree upon shall be deemed to be the fair market value of these shares for all purposes of this Agreement.

Failure to Agree. If the Vendor and the Purchaser do not agree upon the fair market value of the Shares on or before the 20th Business Day after the date on which the obligation to sell or purchase Shares arises under this Agreement, then the value of the Shares shall be determined in accordance with the following provisions:

(a) the Vendor and Purchaser shall agree on the choice of an independent business valuator who deals at Arm's Length with both the Vendor and Purchaser and has experience in valuing businesses similar to the business carried on by the Corporation ("Valuator") with in a further ten (10) days; provided that if the Vendor and Purchaser do not agree on the choice of a Valuator as specified above, either party may apply to a single Judge of the Ontario Superior Court of Justice who will appoint a Valuator;

(b) the business valuator so selected shall be the "Valuator" for the purposes of this Agreement and shall proceed to determine the fair market value of all of the Shares being sold in accordance with the provisions of this Schedule A.

Valuation by Valuator. The Valuator agreed upon or selected in accordance with this Schedule A to determine the fair market value of the Shares being sold shall act as a business valuator and not as an arbitrator or umpire. The Valuator shall apply such business valuation principles as the Valuator deems appropriate. The Valuator may consult such other expert valuators as it considers advisable. The fair market value of the Shares shall be determined without regard for any restrictions applying to the transfer of Shares. The fees and disbursements of the Valuator shall be borne equally by the Vendor and the Purchaser.

Valuation Conclusive. The determination of the value of the Shares being sold pursuant to this Agreement in accordance with this Schedule A, whether based upon the agreement of the Vendor and the Purchaser or the determination by the Valuator, shall be conclusive and binding upon the Vendor and the Purchaser, and there shall be no appeal from the determination.

MUNICIPAL CO-OPERATION AGREEMENT

THE CITY OF NIAGARA FALLS

- and -

THE TOWN OF LINCOLN

- and -

THE TOWN OF PELHAM

- and -

THE TOWNSHIP OF WEST LINCOLN

December 31, 2007

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MUNICIPAL CO-OPERATION AGREEMENT

THIS AGREEMENT made as of the 31st day of December, 2007,

AMONG:

THE CITY OF NIAGARA FALLS, a municipal corporation under the laws of Ontario (**"Niagara Falls"**)

- and -

THE TOWN OF LINCOLN, a municipal corporation under the laws of Ontario (**"Lincoln"**)

- and -

THE TOWN OF PELHAM, a municipal corporation under the laws of Ontario (**"Pelham"**)

- and -

THE TOWNSHIP OF WEST LINCOLN, a municipal corporation under the laws of Ontario (**"West Lincoln"**)

RECITALS:

(a) Niagara Falls Hydro Holding Corporation ("**NFHC**") is wholly-owned by Niagara Falls and Niagara Falls Hydro Inc. ("**NFHI**") is wholly-owned by NFHC.

(b) Peninsula West Power Inc. ("**PWPI**") is owned by Lincoln, Pelham and West Lincoln and Peninsula West Utilities Limited ("**PWUL**") is wholly-owned by PWPI.

(c) The municipal councils of each of Lincoln, Pelham and Niagara Falls approved the Amalgamation. The municipal council of West Lincoln did not approve the Amalgamation.

(d) The Existing Penwest Shareholders Agreement requires two thirds of the votes cast at a duly constituted meeting of the shareholders of PWPI to approve all shareholder decisions, including amalgamations. With the approval of Lincoln and Pelham, which collectively own 76% of the voting shares of PWPI, at a duly constituted shareholders meeting, the shareholders of PWPI have approved the Amalgamation.

(e) NFHC and PWPI have agreed to enter into a Shareholders Agreement, in the form attached as a schedule to the Merger Agreement to be executed at Closing (the "**Shareholders Agreement**") which sets out their respective rights and obligations with respect to the management and operation of the amalgamated corporation resulting from

the amalgamation of NFHI and PWUL ("**Mergeco**") and the ownership of shares in Mergeco and with respect to their relationship towards each other;

(f) Niagara Falls, Lincoln, Pelham and West Lincoln have agreed to enter into this Municipal Co-operation Agreement to set out certain understandings and obligations of the municipalities in respect of the amalgamation of NFHI and PWUL.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the respective covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1
INTERPRETATION

1.1 Defined Terms

All capitalized terms used in the recitals hereto and in this Agreement (including the schedules hereto) and not defined therein shall have the following meanings:

"Agreement" means this Agreement and all Schedules hereto, as amended, supplemented, restated or replaced from time to time in accordance with this Agreement;

"Amalgamation" means the amalgamation and continuation of NFHI and PWUL as Mergeco pursuant to the *Business Corporations Act* (Ontario) and in accordance with the Merger Agreement;

"Amalgamation Effective Date" has the meaning set forth in the Merger Agreement.

"Applicable Law" means, collectively, all applicable federal, provincial and municipal laws, statutes, ordinances, decrees, rules, regulations, by-laws, legally enforceable policies, codes, or guidelines; judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, orders, decisions, directives, rulings or awards; and conditions of any grant of approval, permission, certification, consent, registration, authority or licence by any statutory body, self-regulatory authority, stock exchange or other Governmental Authority;

"Business Day" means any day other than a day which is a Saturday, a Sunday or a statutory holiday in the Province of Ontario;

"Closing" has the meaning set forth in the Merger Agreement;

"Closing Date" has the meaning set forth in the Merger Agreement;

"Contract" means, in respect of a particular Person, any contract, note, bond, mortgage, agreement, indenture, lease, agreement to lease, licence, personal property lease, commitment, understanding, instrument, option or any other instrument, document or

obligation, oral or written, to which such Person is a party or whereby such Person's assets may be bound;

"Existing Niagara Falls Shareholder Declaration" means the Shareholder Declaration dated April 1, 2000 made by Niagara Falls in respect of NFHC and its subsidiaries, including NFHI;

"Existing Penwest Shareholders Agreement" means the Shareholders Agreement dated October 25, 2000 among Lincoln, Pelham and West Lincoln and others in respect of PWPI and its subsidiaries including PWUL;

"Governmental Authority" means any government or political subdivision (including without limitation, any municipality or federal or provincial ministry) or quasi-governmental or regulatory agency, authority, board, commission, department or instrumentality of any government or political subdivision, or any court or tribunal;

"Holding Company" means either NFHC or PWPI or any successor thereto;

"Holding Company Shares" means the NFHC Shares and the PWPI Shares;

"includes" means "includes, without limitation" and "including" means "including without limitation";

"Interim Period" means the period from and including the date of the Merger Agreement to and including the Closing Date or the earlier termination of the Merger Agreement;

"Mergeco" mean the amalgamated corporation resulting from the Amalgamation;

"**Mergeco Shares**" means shares in the capital stock of Mergeco;

"Merger Agreement" means the Merger Agreement among NFHC, NFHI, PWPI and PWUL dated as of the date of this Agreement;

"**Municipal Hold Period"** has the meaning set forth in Section 5.1;

"New Niagara Falls Shareholder Declaration" has the meaning set forth in Section 3.1;

"New Penwest Shareholders Agreement" has the meaning set forth in Section 3.2;

"NFHC Shares" means shares in the capital stock of NFHC;

"Offered Shares" has the meaning set forth in Section 5.2(a);

"**Other Parties"** has the meaning set forth in Section 5.2(b);

"Parties" means the parties to this Agreement, and **"Party"** means either one of them;

"Person" means any individual, corporation, partnership, firm, joint venture, syndicate, association, trust, government, Governmental Authority and any other form of entity or organization;

"**Prospective Purchaser**" has the meaning set forth in Section 5.4;

"**Purchase Notice**" has the meaning set forth in Section 5.3;

"**Purchase Price**" has the meaning set forth in Section 5.2(a);

"**PWPI Shares**" means shares in the capital stock of PWPI;

"Right of First Refusal Period" has the meaning set forth in Section 5.3;

"**Sale Notice**" has the meaning set forth in Section 5.2(a);

"Shareholders Agreement" means the shareholders agreement to be entered into among NFHC, PWPI and Mergeco on Closing substantially in the form attached as Schedule 1.1 to the Merger Agreement.

"Term Sheet" means the Term Sheet dated June 8, 2006 among NFHC, NFHI, PWPI and PWUL relating to the proposed Amalgamation;

1.2 **Interpretation Not Affected by Headings**

The division of this Agreement into articles, sections, subsections, paragraphs, subparagraphs and clauses and the insertion of headings are for the convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms "this Agreement", "hereof", "herein", "hereunder" and similar expressions refer to this Agreement and the schedules hereto and not to any particular article, section, paragraph, subparagraph, clause or other hereof and include any agreement or instrument supplementary or ancillary hereto. Each Party acknowledges that it and its legal counsel have reviewed and participated in settling the terms of this Agreement.

1.3 **Number and Gender**

In this Agreement, unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.

1.4 **Statutes and Amendments**

Any reference in this Agreement to an agreement, or to a statute, regulation or rule promulgated under a statute or to any provision of an agreement, a statute, regulation or rule shall be a reference to the agreement, statute, regulation, rule or provision, as amended, restated, re-enacted or replaced from time to time.

ARTICLE 2
AMALGAMATION

2.1 Amalgamation and Share Allocation

Each of Niagara Falls, Lincoln, Pelham and West Lincoln hereby acknowledge their approval of the Amalgamation on the terms and conditions set out in the Merger Agreement, including, without limitation, the initial allocation of shares of Mergeco between NFHC and PWPI which shall be as follows:

Shareholder	Mergeco Shares
NFHC	745 Shares
PWPI	255 Shares

ARTICLE 3
NEW SHAREHOLDER DECLARATION/AGREEMENT

3.1 Niagara Falls Shareholder Declaration

Niagara Falls agrees that, no later than the Closing Date, it shall authorize and approve a new shareholder declaration or amendment to the Existing Niagara Falls Shareholder Declaration (as appropriate) (the "**New Niagara Falls Shareholder Declaration**") to reflect the creation of Mergeco and, to the extent necessary, the terms of the Shareholders Agreement.

3.2 Penwest Shareholders Agreement

Lincoln, Pelham and West Lincoln each agree that, no later than the Closing Date, they shall authorize and approve a new shareholders agreement or amendment to the Existing Penwest Shareholders Agreement (as applicable) (the "**New Penwest Shareholders Agreement**") to reflect the creation of Mergeco and, to the extent necessary, the terms of the Shareholders Agreement.

3.3 Niagara Falls Closing Deliveries

At Closing, Niagara Falls shall deliver, or cause to be delivered, to Lincoln, Pelham and West Lincoln a copy of the New Niagara Falls Shareholder Declaration executed by Niagara Falls.

3.4 Penwest Closing Deliveries

At Closing, Lincoln, Pelham and West Lincoln shall deliver, or cause to be delivered, to Niagara Falls a copy of the New Penwest Shareholders Agreement executed by Lincoln, Pelham and West Lincoln.

ARTICLE 4
COVENANTS

4.1 Mutual Covenants

(1) Co-operation and Compliance. Subject to the terms and conditions of this Agreement and Applicable Law, each of the Parties shall use commercially reasonable efforts to take, or cause to be taken, all action, and to do, or cause to be done, all things necessary, proper or advisable to complete the Amalgamation.

(2) Confidentiality. Except as required by Applicable Law or a Governmental Authority, the Parties shall treat as confidential this Agreement, the Term Sheet, Merger Agreement and the Shareholders Agreement and all information provided to one another in accordance with this Agreement. Except as required by Applicable Law or a Governmental Authority, all such information shall be kept in the strictest confidence and not divulged to any unrelated third party.

(3) Public Statements. The Parties agree that any public announcement, press release or other public disclosure in respect of the Amalgamation, this Agreement, the Term Sheet, the Shareholders Agreement or the Merger Agreement shall be prepared on a joint basis following consultation between the Parties and shall be in form and substance acceptable to all Parties. Upon the completion of the Amalgamation, the Parties may issue press releases mutually acceptable to all Parties.

ARTICLE 5
HOLDING COMPANY SHARES

5.1 Municipal Hold Period

No right, title, benefit or interest in any shares of NFHC or PWPI may be sold, transferred, assigned, pledged, made subject to any encumbrance or otherwise disposed of by any Party for the five (5) year period from the Closing Date (the "**Municipal Hold Period**") except with the prior written approval of all of the other Parties.

5.2 Right of First Refusal – Sale Initiated by Lincoln, Pelham or West Lincoln

(a) Any of Lincoln, Pelham or West Lincoln (hereinafter in this Article 5 referred to as the "**Pen West Parties**") who desires to transfer or sell (hereinafter in this Article 5 referred to as the "**Pen West Selling Party**") all or any portion of its Holding Company Shares (hereinafter in this Article 5 referred to as the "**Pen West Offered Shares**") after the Municipal Hold Period shall give notice of such proposed sale (hereinafter in this Article 5 referred to as the "**Pen West Sale Notice**") to the other Pen West Parties (hereinafter in this Article 5 referred to as the "**Other Pen West Parties**") and shall set out in the Pen West Sale Notice the terms upon which and the price at which it desires to sell the Pen West Offered Shares (such price being hereinafter in this Article 5 referred to as the "Pen West **Purchase Price**").

(b) Upon the Pen West Sale Notice being given, the Other Pen West Parties shall have the right to purchase all, but not less than all, as nearly may be in proportion to the number of shares of PWPI held by each such Other PenWest Party respectively as at the date of such offer (each a "Proportionate Share"), of the Pen West Offered Shares for the Pen West Purchase Price.

5.3 **Exercise of Right of First Refusal – Sale Initiated by Lincoln, Pelham & West Lincoln:**

The Other Pen West Parties shall have the option, exercisable by giving written notice of the exercise of such option (hereinafter in this Article 5 referred to as the "**Pen West Purchase Notice**") to the Pen West Selling Party within ninety (90) days (hereinafter in this Article 5 referred to as the "**Pen West Right of First Refusal Period**") subsequent to the date of receipt by the Other Pen West Parties of the Pen West Sale Notice, to purchase all but not less than all of its Proportionate Share of the Pen West Offered Shares at the Pen West Purchase Price and the terms set forth in the Pen West Sale Notice. The Pen West Purchase Notice shall state the number of Pen West Offered Shares it is desirous of purchasing which number shall either be (i) its Proportionate Share, or (ii) all but not less than all of the Pen West Offered Shares. If, within the Pen West Right of First Refusal Period, a Pen West Purchase Notice has not been received by the Pen West Selling Party from an Other Pen West Party, such Other Pen West Party shall be deemed to have declined to purchase the Pen West Offered Shares being offered. If the Other Pen West Parties do not claim their respective Proportionate Share of the Pen West Offered Shares, any unclaimed Pen West Offered Shares shall be used to satisfy the claims of such Other Pen West Parties for Pen West Offered Shares in excess of their Proportionate Share. The closing of the sale of the Pen West Offered Shares shall occur on the first Business Day following the expiry of the sixty (60) day period following the date of receipt by the Other Pen West Parties of the Pen West Purchase Notice or, if the completion of such sale requires the prior approval of or notice to a third Person or Governmental Authority under Applicable Law or any instrument or agreement, within thirty (30) Business Days after receipt of such approval or required period of notice or on such later date as may be agreed by the Pen West Parties.

5.4 **Sale of Holding Company Shares**

In the event that the Other Pen West Parties do not exercise their right of first refusal pursuant to Section 5.3, the rights of the Other Pen West Parties, subject as hereinafter provided, to purchase the Pen West Offered Shares shall forthwith terminate and the Pen West Selling Party, may sell the Pen West Offered Shares to Niagara Falls within ninety (90) days after the termination of the Pen West Right of First Refusal Period, for a price not less than the Pen West Purchase Price and on other terms no more favourable to Niagara Falls than those set forth in the Pen West Sale Notice. If Niagara Falls does not purchase the Pen West Offered Shares, the Pen West Selling Party may sell the Pen West Offered Shares to any Person (the "**Prospective Purchaser**") within a further ninety (90) days after the termination of the Pen West Right of First Refusal Period, for a price not less than the Pen West Purchase Price and on other terms no more favourable to the Prospective Purchaser than those set forth in the Pen West Sale Notice. Any Prospective Purchase must agree in writing to assume all obligations and liabilities of the Pen West Selling Party and be bound by the terms of all applicable agreements to which the Pen West Selling Party is bound with respect to the Pen West Offered Shares. If the Pen West

Offered Shares are not sold to within such ninety (90) day periods, or, if the completion of such sale requires the prior approval of or notice to a third Person or Governmental Authority under Applicable Law or any instrument or agreement, within thirty (30) Business Days after receipt of such approval or any required period of notice, on such terms, the rights of the Other Pen West Parties and Niagara Falls pursuant to Article 5 shall again take effect and so on from time to time. All tax, of any kind, including any tax payable on the transfer of electricity assets, payable as a result of the purchase of any Holding Company Shares shall be paid by the purchaser of such shares.

5.5 **Right of First Refusal – Sale Initiated by Niagara Falls**

(a) Should Niagara Falls desire to transfer or sell all or any portion of its Holding Company Shares (hereinafter in this Article 5 referred to as the "**Niagara Offered Shares**") after the Municipal Hold Period, Niagara Falls shall give notice of such proposed sale (hereinafter in this Article 5 referred to as the "**Niagara Sale Notice**") to the other Parties (hereinafter in this Article 5 referred to as the "**Other Parties**") and shall set out in the Niagara Sale Notice the terms upon which and the price at which it desires to sell the Niagara Offered Shares (such price being hereinafter in this Article 5 referred to as the "**Niagara Purchase Price**").

(b) Upon the Niagara Sale Notice being given, the Other Parties shall have the right to purchase all, but not less than all, of their Proportionate Share of the Niagara Offered Shares for the Niagara Purchase Price.

5.6 **Exercise of Right of First Refusal - Sale Initiated by Niagara Falls:**

The Other Parties shall have the option, exercisable by giving written notice of the exercise of such option (hereinafter in this Article 5 referred to as the "**Niagara Purchase Notice**") to Niagara Falls within ninety (90) days (hereinafter in this Article 5 referred to as the "**Niagara Right of First Refusal Period**") subsequent to the date of receipt by the Other Parties of the Niagara Sale Notice, to purchase all but not less than all of its Proportionate Share of the Niagara Offered Shares at the Niagara Purchase Price and the terms set forth in the Niagara Sale Notice. The Niagara Purchase Notice shall state the number of Niagara Offered Shares it is desirous of purchasing which number shall either be its (i) Proportionate Share, or (ii) all but not less than all of the Niagara Offered Shares. If, within the Niagara Right of First Refusal Period, a Niagara Purchase Notice has not been received by Niagara Falls from an Other Party, such Other Party shall be deemed to have declined to purchase the Niagara Offered Shares being offered. If the Other Parties do not claim their respective Proportionate Share of the Niagara Offered Shares, any unclaimed Niagara Offered Shares shall be used to satisfy the claims of such Other Parties for Niagara Offered Shares in excess of their Proportionate Share. The closing of the sale of the Niagara Offered Shares shall occur on the first Business Day following the expiry of the sixty (60) day period following the date of receipt by the Other Parties of the Niagara Purchase Notice or, if the completion of such sale requires the prior approval of or notice to a third Person or Governmental Authority under Applicable Law or any instrument or agreement, within thirty (30) Business Days after receipt of such approval or required period of notice or on such later date as may be agreed by the Parties.

5.7 Sale of Holding Company Shares

In the event that the Other Parties do not exercise their right of first refusal pursuant to Section 5.5, the rights of the Other Parties, subject as hereinafter provided, to purchase the Niagara Offered Shares shall forthwith terminate and the Niagara Selling Party, may sell the Niagara Offered Shares to any Person (the "**Prospective Purchaser**") within ninety (90) days after the termination of the Niagara Right of First Refusal Period, for a price not less than the Niagara Purchase Price and on other terms no more favourable to the Prospective Purchaser than those set forth in the Niagara Sale Notice. Any Prospective Purchase must agree in writing to assume all obligations and liabilities of the Niagara Selling Party and be bound by the terms of all applicable agreements to which the Niagara Selling Party is bound with respect to the Niagara Offered Shares. If the Niagara Offered Shares are not sold within such ninety (90) day period, or, if the completion of such sale requires the prior approval of or notice to a third Person or Governmental Authority under Applicable Law or any instrument or agreement, within thirty (30) Business Days after receipt of such approval or any required period of notice, on such terms, the rights of the Other Parties pursuant to Article 5 shall again take effect and so on from time to time. All tax, of any kind, including any tax payable on the transfer of electricity assets, payable as a result of the purchase of any Holding Company Shares shall be paid by the purchaser of such shares.

5.8 Moratorium on Sales While Purchase Offer Outstanding

Once a Party gives a Sale Notice (either the Pen West Sale Notice or the Niagara Sale Notice, as the case may be) pursuant to Article 5 hereof, for a period of one (1) year, no other Party shall be entitled to give a Sale Notice with respect to Holding Company Shares until such time as the Offered Shares (either the Pen West Offered Shares or the Niagara Offered Shares, as the case may be) are either sold to the Pen West Other Parties or the Other Parties, or a Prospective Purchaser, as the case may be, in accordance with the terms of this Article 5 or the sale of such shares to the Prospective Purchaser does not occur within the time limits prescribed in Article 5. No Party may proceed with any sale of any of the Holding Company Shares owned by it without complying with the relevant provisions of this Agreement.

ARTICLE 6
DISPUTE RESOLUTION

6.1 Disputes

Each Party shall appoint one or more representatives who shall be responsible for administering this Agreement on its behalf and for representing its respective interests in disputes relating to this Agreement. Any dispute between the Parties relating to this Agreement that is not resolved between such representatives within ten (10) Business Days of the date that one Party notifies the other Party of such dispute shall be referred by the Parties' representatives in writing to the Chief Administrative Officer of each Party for resolution. Such senior management shall use good faith efforts to resolve the dispute for a period of up to ten (10) Business Days.

6.2 **Arbitration**

If a dispute is not resolved by the procedure set forth in Section 6.1 above, such dispute may, by any Party, be referred to and resolved by arbitration by a single arbitrator in accordance with the provisions of the *Arbitration Act, 1991* (Ontario), subject to the following modifications and additions:

(a) The arbitration shall take place in the Province of Ontario, and shall be conducted in English.

(b) The arbitration shall be conducted by a single arbitrator having no financial, business or personal interest in the outcome of the arbitration. The arbitrator shall be appointed jointly by agreement of the parties to such dispute. In the event the parties to such dispute are unable to agree on the appointment of the arbitrator within ten (10) days after notice of a demand for arbitration is given by a Party and agreed to by the other parties to such dispute, then the arbitrator shall be selected pursuant to the provisions of the *Arbitration Act, 1991* (Ontario).

(c) The arbitrator shall have the authority to award any remedy or relief that a court could order or grant in accordance with this Agreement including, without limitation, specific performance of any obligation, the issuance of an interim, interlocutory or permanent injunction, or the imposition of sanctions for abuse or frustration of the arbitration process.

(d) The arbitrator shall have sole and exclusive jurisdiction to examine into, hear and determine all matters and questions of fact and law in respect of which any powers or authority has been conferred upon the arbitrator, including questions of jurisdiction. The arbitral award shall be in writing, stating the reasons for the award and shall be final and conclusive and is not open to appeal, question or review in any court and any determination by the arbitrator made under this Article is hereby ratified and confirmed and is binding upon all persons. No proceedings by or before the arbitrator shall be restrained by injunction, prohibition or other process or proceeding in any court, or are removable by certiorari or otherwise into any court.

ARTICLE 7
GENERAL PROVISIONS

7.1 **Notices**

Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be given by facsimile or by hand-delivery as provided below. Any such notice or other communication, if sent by facsimile, shall be deemed to have been received on the Business Day following the sending, or if delivered by hand, shall be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address shall also

be governed by this Section 7.1. Notices and other communications shall be addressed as follows:

(a) in the case of Niagara Falls:

Niagara Falls Hydro Inc.
7447 Pin Oak Drive, P.O. Box 120
Niagara Falls, ON L2E 6S9

Attention: Brian Wilkie, President
Fax: (905) 356-0118

(b) in the case of Lincoln:

The Corporation of the Town of Lincoln
4800 South Service Road
Beamsville, ON L0R 1B1

Attention: William Kolasa, Clerk
Fax No.: 905-563-6566

(c) in the case of West Lincoln:

The Corporation of the Township of West Lincoln
318 Canboro Street, Box 400
Smithville ON L0R 2A0

Attention: Carolyn Langley, Clerk
Fax No.: 905-957-3219

(d) in the case of Pelham:

The Corporation of the Town of Pelham
20 Pelham Town Square
Box 400
Fonthill, ON L0S 1E0

Attention: Cheryl Miclette, Clerk
Fax No.: 905 892 5055

Notwithstanding the foregoing, any notice of arbitration permitted to be given by any party pursuant to or in connection with any arbitration procedures in Section 6.2 may only be delivered by hand. Normal communications during the arbitration process itself may be delivered by facsimile, regular mail or by hand-delivery. The failure to send or deliver a copy of a notice to counsel shall not invalidate any notice given under this Section 7.1.

7.2 **Entire Agreement**

This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior negotiations, understandings and agreements between the Parties, written or oral, in respect thereof.

7.3 **Waiver, Amendment**

No modification of or amendment to this agreement shall be valid or binding unless set forth in writing and duly executed by each of the Parties. No waiver of any provision of this Agreement shall be effective or binding unless made in writing and signed by the Party purporting to give the same and, unless otherwise provided, no such waiver shall constitute a waiver of any other provision of this Agreement nor constitute a continuing waiver, or operate as a waiver of, or estoppel with respect to, any subsequent failure to comply.

7.4 **Counterparts**

This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same agreement. Counterparts may be executed either in original or facsimile form and the Parties shall accept any signatures received by a receiving facsimile machine as original signatures of the Parties; provided, however, that any Party providing its signature in such manner shall promptly forward to the other Parties an original of the signed copy of this Agreement which was so facsimiled.

7.5 **Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The Parties agree that the courts of Ontario shall have exclusive jurisdiction to determine all disputes and claims arising under or pursuant to this Agreement.

7.6 **Time of Essence**

Time shall be of the essence hereof.

7.7 **Severability**

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions hereof and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. In respect of any provision so determined to be unenforceable or invalid, the Parties agree to negotiate in good faith to replace the unenforceable or invalid provision with a new provision that is enforceable and valid in order to give effect to the business intent of the original provision to the extent permitted by law and in accordance with the intent of this Agreement.

7.8 **Assignment**

The rights or obligations of each Party hereunder shall not be assignable without the prior written consent of all of the other Parties.

7.9 **Successors**

This Agreement shall be binding upon and enure to the benefit of the Parties hereto and their respective successors and permitted assigns. Nothing herein, express or implied, is intended to confer upon any person, other than the Parties hereto and their respective successors and permitted assigns, any rights remedies, obligations or liabilities under or by reason of this Agreement.

IN WITNESS WHEREOF the parties hereto have duly authorized and executed this Agreement as of the day and year first above written.

THE CITY OF NIAGARA FALLS

By: _____
Name: R.T. (TED) SALCI
Title: MAYOR

By: _____
Name: DEAN IØRFIDA
Title: CITY CLERK

THE TOWN OF LINCOLN

By: _____
Name:
Title:

By: _____
Name:
Title:

THE TOWN OF PELHAM

By: _____
Name:
Title:

By: _____
Name:
Title:

7.8 **Assignment**

The rights or obligations of each Party hereunder shall not be assignable without the prior written consent of all of the other Parties.

7.9 **Successors**

This Agreement shall be binding upon and enure to the benefit of the Parties hereto and their respective successors and permitted assigns. Nothing herein, express or implied, is intended to confer upon any person, other than the Parties hereto and their respective successors and permitted assigns, any rights remedies, obligations or liabilities under or by reason of this Agreement.

IN WITNESS WHEREOF the parties hereto have duly authorized and executed this Agreement as of the day and year first above written.

THE CITY OF NIAGARA FALLS

By: _____
Name:
Title:

By: _____
Name:
Title:

THE TOWN OF LINCOLN

By: _____
Name: Bill Hodgson
Title: Mayor

By: _____
Name: William Kolasa
Title: Clerk

THE TOWN OF PELHAM

By: _____
Name: Dave Augustyn
Title: Mayor

By: _____
Name: Cheryl Miciette
Title: Clerk

THE TOWNSHIP OF WEST LINCOLN

By: _____
Name: Katie Trombetta
Title: Mayor

By: _____
Name: Carolyn Langley
Title: Clerk

SCHEDULE 1.1

MERGECO SHAREHOLDERS AGREEMENT

Please see attached.

SHAREHOLDERS AGREEMENT

Dated as of January 1, 2008

NIAGARA FALLS HYDRO HOLDING CORPORATION

- and -

PENINSULA WEST POWER INC.

- and -

NIAGARA PENINSULA ENERGY INC.

- and -

SUCH OTHER PERSONS AS MAY BECOME SHAREHOLDERS IN NIAGARA PENINSULA ENERGY INC.

Borden Ladner Gervais LLP
Scotia Plaza, 40 King Street West
Toronto, Ontario
M5H 3Y4

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SHAREHOLDERS AGREEMENT

THIS AGREEMENT made as of the 1st day of January, 2008.

AMONG:

NIAGARA FALLS HYDRO HOLDING CORPORATION, a corporation duly incorporated under the *Business Corporations Act* (Ontario) (hereinafter referred to as **"NFHC"**)

- and -

PENINSULA WEST POWER INC., a corporation duly incorporated under the *Business Corporations Act* (Ontario) (hereinafter referred to as **"PWPI"**)

- and -

NIAGARA PENINSULA ENERGY INC., a corporation duly amalgamated under the *Business Corporations Act* (Ontario) (hereinafter referred to as the "**Corporation**")

- and -

SUCH OTHER PERSONS AS MAY FROM TIME TO TIME BECOME SHAREHOLDERS IN THE CORPORATION AND PARTIES HERETO

RECITALS:

A. NFHC was the sole shareholder of Niagara Falls Hydro Inc. ("**NFHI**") an electricity distribution company created pursuant to Section 142 of the *Electricity Act, 1998* (Ontario) (the "**Electricity Act**");

B. PWPI was the sole shareholder of Peninsula West Utilities Limited ("**PWUL**") an electricity distribution company created pursuant to Section 142 of the Electricity Act;

C. NFHC is wholly-owned by Niagara Falls;

D. PWPI is owned by Lincoln, Pelham and West Lincoln;

E. NFHC and PWPI agreed to amalgamate NFHI and PWUL to form the Corporation (the "**Amalgamation**") pursuant to the terms of the Merger Agreement dated December 31, 2007 among NFHC, NFHI, PWPI and PWUL (the "**Merger Agreement**") and the Amalgamation Agreement among NFHC, NFHI, PWPI and PWUL dated December 31, 2007 and the Amalgamation was effective January 1, 2008;

F. Upon the Amalgamation, NFHC received seven hundred and forty-five (745) common shares in exchange for one hundred (100) common shares in the capital of

NFHI and PWPI received two hundred and fifty-five (255) common shares in exchange for one hundred (100) common shares in the capital of PWUL;

G. The Councils of Lincoln, Pelham and Niagara Falls approved the Amalgamation. The Council of West Lincoln did not approve the Amalgamation.

H. The shareholder agreement of PWPI requires two-thirds (2/3) of the votes cast at a duly constituted meeting of the shareholders of PWPI to approve all shareholder decisions, including amalgamations. With the approval of Lincoln and Pelham, which collectively own 76% of the voting shares of PWPI, at a duly constituted shareholders meeting, the shareholders of PWPI approved the Amalgamation. PWPI, the sole shareholder of PWUL, approved the Amalgamation. The directors of both PWPI and PWUL approved the Amalgamation.

I. The shareholders and directors of NFHC and NFHI approved the Amalgamation.

J. The authorized capital of the Corporation consists of an unlimited number of common hsares of which 1,000 are issued and outstanding.

K. At the date hereof all of the issued and outstanding shares of the Corporation are registered and beneficially owned as follows:

Shareholder	**Corporation Shares**
NFHC	745 common shares
PWPI	255 common shares

L. The parties have agreed to set out in this Agreement their respective rights and obligations with respect to the management and operation of the Corporation and the ownership of shares in the Corporation and with respect to their relationship towards each other; and

M. The operation and management of the Corporation shall be based upon the general objectives and business principles set out in Section 2.1 of this Agreement.

NOW, THEREFORE IN CONSIDERATION OF THE FOREGOING AND OF THE MUTUAL COVENANTS HEREIN CONTAINED, THE PARTIES HERETO AGREE AS FOLLOWS:

ARTICLE 1 - INTERPRETATION

1.1 **Definitions:** Whenever used in this agreement unless there is something in the subject matter or context inconsistent therewith, the following terms shall have these respective meanings:

"**Additional Shareholders**" means such Persons, other than NFHC or PWPI, as may from time to time become shareholders of the Corporation and parties to this Agreement.

"**Affiliate Relationships Code**" means the Affiliate Relationships Code for Electricity Distributors and Transmitters issued by the OEB, as amended from time to time and any replacement code or directive.

"**Agreement**" means this Shareholders Agreement, and includes any agreement which is supplementary to or an amendment or confirmation of this Agreement (and which is entered into in accordance with this Agreement) and any schedules hereto or thereto.

"**Amalgamation**" has the meaning set forth in the Recitals to this Agreement.

"**Applicable Law**" means, collectively, all applicable federal, provincial and municipal laws, statutes, ordinances, decrees, rules, regulations, by-laws, legally enforceable policies, codes, or guidelines, judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, orders, decisions, directives, rulings or awards, and conditions of any grant of approval, permission, certification, consent, registration, authority or licence by any statutory body, self-regulatory authority or other Governmental Authority.

"**Articles**" means the articles of amalgamation of the Corporation in effect on the date hereof.

"**Board**" means the board of directors of the Corporation as elected by the Shareholders from time to time in accordance with the provisions of this Agreement.

"**Business**" means, with respect to the Corporation, the distribution of electricity to the customers of the Corporation and the provision of such ancillary services as may be determined from time to time and such other businesses which may be permitted to be undertaken by the Corporation pursuant to Section 2.3 of this Agreement.

"**Business Day**" means any day except Saturday, Sunday or any day which is a statutory holiday in the Province of Ontario.

"**Chair**" means the director who is appointed chair of the Board from time to time as provided in this Agreement.

"**Council**" means the municipal Council at such time of the Municipalities or of any other municipality which may become a direct or indirect shareholder of the Corporation from time to time.

"**Electricity Act**" means the *Electricity Act, 1998* (Ontario), as amended from time to time and any replacement or successor legislation.

"**Former Director**" has the meaning set forth in Section 4.13.

"**Governmental Authority**" means any government or political subdivision (including without limitation, any municipality or federal or provincial ministry) or quasi-governmental or regulatory agency, authority, board, commission, department or instrumentality of any government or political subdivision, or any court or tribunal including the IESO, OEB and OPA.

"**IESO**" means the Ontario Independent Electricity System Operator and any successor.

"**includes**" means "includes, without limitation" and "including" means "including, without limitation".

"**Information**" has the meaning set forth in Section 14.3.

"**LDC**" means an electricity distribution corporation created pursuant to Section 142 of the Electricity Act and licensed to distribute electricity pursuant to the OEB Act.

"**Lincoln**" means the Town of Lincoln.

"**Municipalities**" means Lincoln, Niagara Falls, Pelham and West Lincoln;

"**Niagara Falls**" means the City of Niagara Falls.

"**Non-Selling Shareholder**" has the meaning set forth in Section 13.5(a).

"**OBCA**" means the *Business Corporations Act* (Ontario), as amended from time to time.

"**OEB**" means the Ontario Energy Board and any successor.

"**OEB Act**" means the *Ontario Energy Board Act, 1998*, as amended from time to time and any replacement or successor or legislation.

"**Offered Shares**" has the meaning set forth in Section 8.1(a).

"**OPA**" means the Ontario Power Authority and any successor.

"**Ordinary Course of Business**" means the conduct of the Business in the ordinary and usual course and in a manner consistent with the manner in which the Business is carried on as of the date hereof or as may be permitted pursuant to Section 2.3 hereof including as to the nature and scope of the Business and shall include the acquisition of the shares, assets or business of

LDC's and related businesses and the amalgamation of the Corporation with other LDC's.

"**Parties**" means the Shareholders and the Corporation and "Party" means any one of them.

"**Pelham**" means the Town of Pelham.

"**Permitted Transferee**" has the meaning set forth in Section 7.3(a).

"**Person**" means any individual, corporation, partnership, firm, joint venture, syndicate, association, trust, Governmental Authority and any other form of entity or organization.

"**Pro Rata**" means in the same proportion that the number of common shares owned by a Shareholder is to all of the then issued and outstanding common shares of all Shareholders of the Corporation.

"**Prospective Purchaser**" has the meaning set forth in Section 8.3.

"**Purchase Notice**" has the meaning set forth in Section 8.2.

"**Purchase Price**" has the meaning set forth in Section 8.1(a).

"**Right of First Refusal Period**" has the meaning set forth in Section 8.2.

"**Remaining Shareholders**" has the meaning set forth term in Section 8.1(b).

"**Sale Notice**" has the meaning set forth in Section 8.1(a).

"**Selling Shareholder**" has the meaning set forth in Section 8.1(a).

"**Shareholder**" means individually any, and "**Shareholders**" means collectively all, of NFHC and PWPI and any Person to whom any Shares are transferred, or issued, in accordance with the terms of this Agreement, at any time subsequent to the date of this Agreement.

"**Shares**" means common shares of the Corporation.

"**Share Purchase Price**" has the meaning set forth in Section 12.3.

"**Special Resolution**" means a resolution that is submitted to a meeting of the Shareholders called for the purpose of considering the resolution and passed, with or without amendment, at the meeting by at least two-thirds (2/3) of the votes cast.

"**Standstill Period**" means the five (5) year period from the date of this Agreement to and including January 1, 2013.

"**West Lincoln**" means the Township of West Lincoln.

"**Withdrawal Date**" has the meaning set forth in Section 12.4.

"**Withdrawing Shareholder**" has the meaning set forth in Section 12.2.

1.2 **Interpretation:** Unless otherwise defined in this Agreement, words and phrases that have not been defined shall have the meaning ascribed to them in the OBCA.

1.3 **Interpretation Not Affected by Headings:** The division of this Agreement into Articles, Sections, Subsections, Paragraphs, Subparagraphs and Clauses and the insertion of headings are for the convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms "this Agreement", "hereof", "herein", "hereunder" and similar expressions refer to this Agreement and not to any particular Article, Section, Subsection, Paragraph, Subparagraph or Clause or other portion hereof and include any agreement or instrument supplemental or ancillary hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles and Sections are to Articles and Sections of this Agreement.

1.4 **Number and Gender:** Words importing the singular number only shall include the plural and vice versa, words importing the masculine gender shall include the feminine and neuter genders and vice versa.

1.5 **Accounting Principles:** Wherever in this Agreement reference is made to generally accepted accounting principles, such reference shall be deemed to be the generally accepted accounting principles from time to time approved by the Canadian Institute of Chartered Accountants, or any successor institute, applicable as at the date on which such calculation is made or required to be made in accordance with generally accepted accounting principles.

1.6 **Effect of this Agreement:** To the extent that this Agreement specifies that any matters relating to the Corporation may only be or shall be dealt with or approved by, or shall require action by the Shareholders, the discretion and powers of the directors of the Corporation to manage and to supervise the management of the business and affairs of the Corporation with respect to such matters are correspondingly restricted. For greater certainty, the Parties agree that Sections 5.1 and 5.2 of this Agreement are intended to operate as a unanimous shareholders agreement with respect to the Corporation, within the provisions of Section 108(2) of the OBCA.

1.7 **Statutes and Amendments:** Any reference in this Agreement to an agreement, or to a statute, regulation or rule promulgated under a statute or to any provision of an agreement, a statute, regulation or rule shall be a reference to the agreement, statute, regulation, rule or provision, as amended, restated, re-enacted or replaced from time to time.

1.8 **Schedules:** The following schedules are incorporated herein and form part of this Agreement:

Schedule A Valuation Method

ARTICLE 2 - OBJECTIVES, GUIDING PRINCIPLES AND PERMITTED BUSINESS ACTIVITIES

2.1 **Guiding Principles and Objectives:** The Parties acknowledge and recognize the following guiding principles and objectives of the Corporation and the intention of the Shareholders that the Corporation be managed in a manner consistent with these guiding principles and objectives:

(a) maintain local presence and control over the management of electricity services and rates;

(b) improve electricity distribution services to local customers;

(c) improve the utilization of existing resources;

(d) explore business options that achieve new economics of scale and avoid duplication of services and costs to the customer;

(e) pursue strategic partnerships that contribute to a strengthened corporate presence and voice – locally and provincially;

(f) improve corporate flexibility to better respond to emerging business opportunities and complexities in the electricity market; and

(g) increase corporation value to maximize Shareholder wealth.

2.2 **Financial Policies, Risk Management and Strategic Plan:** The Shareholders expect that the Board will establish policies to:

(a) Capital Structure - develop and maintain a prudent financial and capitalization structure for the Corporation consistent with industry norms and sound financial principles and established on the basis that the Corporation is a self-financing entity;

(b) Distribution Rates – ensure the establishment of just and reasonable electricity distribution rates for the regulated electricity distribution business of the Corporation which are:

(i) consistent with similar utilities in comparable growth areas and as may be permitted under the OEB Act;

(ii) intended to enhance the value of the Corporation; and

(iii) consistent with the encouragement of economic development and activity for each of the Shareholders.

It is the intention of the parties to harmonize the distribution rates of NFHI and PWUL conditional on receiving all necessary regulatory approvals;

(c) Dividends – the establishment of a dividend policy, consistent with prudent financial practices, for the Corporation, all with the intention of providing the Shareholders with a reasonable rate of return on their investment while maintaining reasonable rates for customers;

(d) Risk Management - manage all risks related to the Business conducted by the Corporation through the adoption of appropriate risk management strategies and internal controls consistent with industry norms; and

(e) Strategic Plan - develop a long range strategic plan for the Corporation which is consistent with:

(i) the guiding principles and objectives in Section 2.1;

(ii) the maintenance of a viable Business; and preservation of the value of the Business for the Shareholders.

2.3 **Permitted Business Activities:**

The Corporation may engage in the business activities which are permitted by Applicable Law from time to time, including the Electricity Act and OEB Act and as the Board may authorize. In so doing, the Corporation shall conform to all requirements of the OEB, the IESO, the OPA and all other applicable Governmental Authorities.

ARTICLE 3 - IMPLEMENTATION OF THIS AGREEMENT

3.1 **Carrying out of the Agreement:**

(a) The Shareholders shall at all times act and vote their Shares to carry out and cause the Corporation to carry out the provisions of this Agreement.

(b) To the extent that each Shareholder is permitted by Applicable Law to bind its nominees to do so, the nominee directors of the Shareholder will act and vote as directors in order that the purpose, intent and provisions of this Agreement shall be carried out.

(c) The Corporation confirms its knowledge of this Agreement and will carry out and be bound by the provisions of this Agreement to the full extent that it has the capacity and power at law to do so.

3.2 **Endorsement on Share Certificates:** Share Certificates of the Corporation shall bear the following language either as an endorsement or on the face thereof:

> "The shares represented by this certificate are subject to all the terms and conditions of an agreement made as of January 1, 2008, a copy of which is on file at the registered office of the Corporation."

ARTICLE 4 - DIRECTORS AND OFFICERS

4.1 **Number of Directors:**

(a) The Articles of the Corporation shall provide for the Board to consist of a minimum of four (4) directors and a maximum of twelve (12) directors.

(b) The initial Board shall consist of eight (8) directors.

4.2 **Nomination of the Initial Directors:** Subject to Sections 4.4, 4.6 and 4.8 , NFHC shall be entitled to nominate four (4) directors and PWPI shall be entitled to nominate four (4) directors and thereafter each of NFHC and PWPI shall be entitled to nominate an equal number of directors. Directors shall hold office until such time as their successors are elected by the Shareholders.

4.3 **Election of Directors:** The Shareholders shall at all times act and vote their Shares to elect as directors of the Corporation the individuals nominated as directors by each Shareholder, and, if required by a Shareholder, to remove such director(s). The Shareholders shall at all times act and vote their Shares to maintain the equal representation of both NFHC and PWPI on the Board.

4.4 **Changing the Number of Directors:** In the event that the Shareholders desire to increase or decrease the number of directors serving on the Board, the Shareholders shall elect such directors, as determined by the Shareholders, in order to maintain the equal representation of both NFHC and PWPI on the Board.

4.5 **Qualification of Directors:**

(a) In addition to the requirements of the OBCA, the qualifications of candidates for the Board shall, where possible, include the following:

(i) commercial experience, sensitivity and acumen;

(ii) time availability;

(iii) corporate finance; accounting experience;

(iv) corporate governance experience;

(v) market development experience;

(vi) industry knowledge including, but not limited to, knowledge of competitive energy or telecommunications markets;

(vii) independent, objective and sound of judgment;

(viii) personal integrity and honesty;

(ix) knowledge of public policy and government regulation issues relating to the Corporation and the electricity industry;

(x) knowledge and experience concerning environmental matters, labour relations and occupational health and safety issues;

(xi) knowledge of the local communities;

(xii) awareness of public policy issues related to the Corporation;

(xiii) business expertise, including marketing, product development, mergers and acquisitions and/or retail experience;

(xiv) experience on boards of significant commercial corporations, preferably with revenues of $10 million annually or more; and

(xv) knowledge and experience with risk management strategy.

(b) Preference may be given to qualified candidates for the Board who are residents of the Municipalities; however, non-residents of the Municipalities shall not be excluded from serving as members of the Board.

4.6 **Affiliate Relationships Code:** The composition of the Board shall comply with the provisions of the Affiliate Relationships Code, as applicable, unless an exemption from compliance applicable to the Corporation has been provided by the OEB and is in effect.

4.7 **Chair:** The Chair shall be selected by the Board from among the directors and shall preside at each meeting of the Board. In the absence of the Chair, the chairman of the meeting shall be selected by the directors in attendance at such meeting.

4.8 **Term of Directors:**

(a) Each director of the Corporation shall be appointed for a term which may be from one (1) to three (3) years as provided in the by-laws of the Corporation.

(b) A director may be appointed for successive terms in the discretion of the Shareholder appointing such director.

4.9 **Removal of Directors:** Section 122 of the OBCA does not apply to the removal of directors from the Board. Each Shareholder shall be entitled in its discretion to cause any of the directors nominated by it to be removed and to nominate and have an

individual elect a successor or successors, as the case may be, by providing a direction in writing to the Corporation and to the other Shareholders who shall elect such replacement director or directors. Upon the resignation or removal of a director from the Board, the Shareholder that nominated such director shall use reasonable efforts to obtain and deliver to the Corporation a resignation and release from such director in a form satisfactory to the Corporation.

4.10 **Voting:**

(a) All matters to be determined by the Board shall be determined by a majority vote of directors at a duly convened meeting of the Board and, in case of an equality of votes, the matter shall not be approved and the chairman of the meeting shall not be entitled to a second or casting vote.

(b) Notwithstanding Section 4.10(a) above, in lieu of a meeting of the directors, the consent of the directors with respect to any matter may be evidenced by a resolution in writing (which may be in counterparts) signed by all of the directors.

4.11 **Meeting of Directors:**

(a) The Board shall meet at least once each financial quarter at a time and place to be determined by the Chair. Additional meetings of the Board may be called by the Chair or any other director by notice in writing to every other director of the time, place and purpose of the meeting of the Board and the matters to be considered.

(b) All meetings of the Board shall, unless held by telephone or video conference, be held within the Province of Ontario.

(c) Any one or more of the directors may participate in a meeting of the Board by any telephonic or video device which permits all participants in the meeting to communicate with each other simultaneously and instantaneously, and such participation shall be deemed to constitute attendance at the meeting of the Board for the purpose of this Section 4.11. The Chair may determine that any meeting of the Board may be held by telephone or video conference.

(d) At least seven (7) Business Days prior to each meeting, each director shall be notified in writing of the time, place and purpose of the meeting of the Board and the matters to be considered.

(e) A director may waive notice of any meeting of the Board by an instrument in writing delivered to the Secretary of the Corporation.

4.12 **Quorum – Meetings of Directors**

(a) A quorum for a meeting of the Board shall consist of a majority of the total number of elected directors, (rounded up to the next whole number) provided that, so long as NFHC and PWPI are the only Shareholders of the

Corporation, at least one (1) director who is a nominee of NFHC and at least one (1) director who is a nominee of PWPI must be present at all meetings of the Board.

(b) If a quorum of directors is not present within thirty (30) minutes after the time appointed for a meeting of the Board, the meeting shall be adjourned to a date not less than five (5) and not more than fifteen (15) Business Days subsequent to the date originally set for the meeting, as the directors present at the meeting may determine.

(c) At least two (2) Business Days prior written notice shall be provided to all of the directors of the date for the meeting adjourned pursuant to Section 4.12(b).

(d) If a quorum is not present at such adjourned meeting, the Secretary of the Corporation shall forthwith call a further adjourned meeting of the Board, to be held not later than five (5) Business Days after the previously adjourned meeting was to be held and shall provide at least two (2) Business Days prior written notice thereof to the Shareholders. The Shareholders shall cause their respective nominee directors to attend, (or shall remove their nominee directors and nominate directors to be elected as replacement directors in accordance with Section 4.9 and cause such replacement directors to attend), the further adjourned meeting.

4.13 **Vacancies:** In the event of any vacancy occurring on the Board by reason of the death, disqualification, inability to act or resignation of any director (the "**Former Director**"), the Shareholder entitled to nominate the Former Director shall nominate another individual to replace the Former Director in order to fill such vacancy as soon as reasonably possible, and the Shareholders shall vote their Shares to elect such nominee accordingly.

4.14 **Insurance:** The Corporation shall acquire and maintain insurance coverage for the directors and officers of the Corporation as the Board may determine from time to time. In the event that such insurance coverage ceases to be available to the directors for any reason, each Shareholder shall be responsible for insuring its own nominees.

4.15 **Auditor:** Crawford, Smith, and Swallow shall be appointed as the initial auditor of the Corporation and shall hold office until such time as the Shareholders select a replacement.

4.16 **Corporate Governance Matters:** Subject to the provisions of Article 5, the Board shall supervise the management of the business and affairs of the Corporation and, in so doing, shall act honestly and in good faith with a view to the best interests of the Corporation and each director shall exercise the same degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

4.17 **Initial Senior Executive Arrangements:**

(a) The Parties acknowledge and agree Brian Wilkie shall be the initial President and Chief Executive Officer of the Corporation.

(b) In addition to the senior executive arrangements provided in Section 4.17(a) the Board shall appoint such other officers of the Corporation as the Board may determine.

ARTICLE 5 - APPROVAL OF CERTAIN CORPORATE ACTIONS

5.1 **Unanimous Approval by Shareholders:** Subject to Section 5.3, unless first approved by an unanimous resolution of Shareholders, either adopted at a meeting of the Shareholders called for that purpose or evidenced by a resolution in writing signed by all of the Shareholders, no action shall be taken by the Corporation with respect to any of the following matters:

(a) Amalgamating, consolidating, reorganizing or merging the Corporation with another entity;

(b) Create new classes of shares;

(c) Issue, or enter into any agreement to issue, any shares of any class, or any securities convertible into any shares of any class, of the Corporation or grant any option or other right to purchase any shares or securities convertible into such shares;

(d) Amend the rights, restrictions or privileges of any Shares of the Corporation;

(e) Disposing of or encumbering all or substantially all of the assets of the Corporation;

(f) Changing the dividend policy for the Corporation;

(g) Any amendment to the provisions of this Agreement regarding proportional representation of the Shareholders on the Board or the rights of Shareholders to nominate members of the Board;

(h) Entering into any partnership, joint venture or other business venture that would involve the expenditure or investments of funds by the Corporation outside of the Ordinary Course of Business or that would change the status of the Corporation for taxation purposes, under the Electricity Act or the *Income Tax Act* (Canada), *Corporations Tax Act* (Ontario) or other Applicable Law;

(i) Changing the capitalization policy or the financing policy for the Corporation;

(j) Acquire any electricity distribution business outside of the municipal boundaries of the Municipalities or otherwise acquiring shares in another corporation;

(k) Making loans or providing financial support to a Shareholder, an employee or a person not at arm's length to a Shareholder; or

(l) Any amendment, assignment or termination of any agreement among the Corporation, Niagara Power Inc., Niagara West Transformation Corporation ("**NWTC**"), and/or PWPI regarding the administration and operation of NWTC and its transformation station.

5.2 **Special Resolution by Shareholders:** Subject to Section 5.3, unless first approved by a Special Resolution of the Shareholders, adopted at a meeting of the Shareholders called for that purpose, no action shall be taken by the Corporation with respect to any of the following matters:

(a) Change the name of the Corporation;

(b) Add, remove or change restrictions on the business of the Corporation;

(c) Amendment of articles or bylaws of the Corporation;

(d) Subject to Section 5.1(g) above regarding proportional representation on the Board, any change in the number of directors of the Corporation;

(e) Redeem, purchase for cancellation or otherwise retire any outstanding shares of the Corporation;

(f) Taking any action to wind-up or dissolve the Corporation;

(g) Taking any bankruptcy or insolvency related actions with respect to the Corporation;

(h) Apply to continue as a corporation in another jurisdiction;

(i) Incurring single project capital expenditures greater than $5 million;

(j) Creating a subsidiary of the Corporation;

(k) Borrowing of money in excess of $5 million;

(l) Becoming contingently liable for the debts or obligations of another person;

(m) Changing the fiscal year end of the Corporation;

(n) Changing the auditors of the Corporation;

(o) Giving security on the Corporation assets except in the ordinary course of business; or

(p) Change in the location of the head office of the Corporation.

5.3 **Additional Shareholders:** In the event that Persons become Shareholders of the Corporation in addition to NFHC and PWPI other than in accordance with Articles 7, 8, 9, 10, 11 and 12 of this Agreement, the parties acknowledge that provisions of this Agreement shall be reviewed and, if required, revised in a manner to be determined by the parties consistent with the guiding principles of the Corporation as described in Section 2.1 of this Agreement.

ARTICLE 6 - REPRESENTATIONS AND WARRANTIES

6.1 **Representations and Warranties by Shareholders.** Each Shareholder represents and warrants to each of the other Shareholders and acknowledges that each of the other Shareholders is relying on these representations and warranties in connection with entering into this Agreement:

(a) that each Shareholder owns beneficially and of record the number of issued and outstanding Shares which is set out opposite its name in Recital F to this Agreement, that those Shares are not subject to any mortgage, hypothec, lien, charge, priority, pledge, encumbrance, security interest or adverse claim, and that no Person has any rights to become a holder or possessor of any of those Shares or of the certificates representing them;

(b) that it is duly incorporated and validly existing under the laws of its jurisdiction of incorporation and that it has the corporate power and capacity to own its assets and to enter into and perform its obligations under this Agreement;

(c) that this Agreement has been duly authorized, executed and delivered by it, and (assuming due execution and delivery by the other Parties) is a legal, valid and binding obligation of it enforceable against it in accordance with its terms;

(d) that the execution, delivery and performance of this Agreement does not and will not contravene the provisions of its articles, by-laws, constating documents or other organizational documents, or the provisions of any contract, agreement or other instrument to which it is a party or by which it may be bound;

(e) that the Shareholder is not a non-resident for purposes of the *Income Tax Act* (Canada); and

(f) that all of the representations and warranties set out in Section 6.1(a) through (f) will continue to be true and correct during the term of this Agreement.

ARTICLE 7 - RESTRICTIONS ON SHARE TRANSFERS

7.1 **Standstill Period - Restricted Sales of Shares:** No Shareholder may sell all or any portion of its Shares without the prior written consent of all of the other Shareholders during the Standstill Period. After the Standstill Period has expired, a Shareholder may only sell, transfer, assign or otherwise dispose of the whole or any part of its Shares in accordance with this Agreement.

7.2 **Agreement Binding on Transferees:** No Shares of the Corporation shall be effectively issued, sold, assigned, transferred, disposed of or conveyed, by a Shareholder to any Person except in accordance with this Agreement and until the proposed transferee or purchaser executes and delivers to the Parties hereto an agreement to the same effect as this Agreement and any further agreement with respect to the Corporation to which the Shareholders are then, or are then required to be, a party. Upon the proposed transferee or purchaser so doing, such agreements shall enure to the benefit of and be binding upon all of the Parties to them as if all had executed and delivered the same agreements at the same time.

7.3 **Permitted Transferees:**

(a) Subject to the restrictions on transfer or sale in Section 7.1 and 7.2 hereof, a Shareholder may, without the consent of the other Shareholders, transfer any or all of the Shares owned by it to any Person (hereinafter in this Section 7.3 referred to as a "**Permitted Transferee**") provided that the Permitted Transferee is wholly-owned by such Shareholder or, if such Shareholder is a corporation, the Permitted Transferee is wholly-owned by the Controlling Shareholder of such Shareholder and provided that prior to any such transfer:

(i) the Permitted Transferee shall undertake in writing, by signing a counterpart of this Agreement, to be bound by the terms and conditions of this Agreement; and

(ii) the Controlling Shareholder of such Permitted Transferee represents, warrants, and undertakes in writing that it shall wholly own such Permitted Transferee for as long as such Permitted Transferee holds Shares of the Corporation.

(b) In the event that the transferee of the Shares ceases to be a Permitted Transferee for the purposes of this Section 7.3 then the Shares shall be promptly transferred back to the Shareholder.

7.4 **Pre-emptive Right**:.

(a) Except as expressly provided in this Agreement, if any additional Shares or other securities of the Corporation are approved for issue or if any other options or rights to purchase or subscribe for securities of the Corporation are approved for grant none of those Shares or other securities of the Corporation shall be issued by the Corporation, and none of those options or other rights

shall be granted, at any time after the date of this Agreement, except in compliance with this Section 7.4.

(b) If the Corporation proposes to issue any Shares or other securities of the Corporation (in this Section 7.4, the "**Affected Securities**"), the Corporation shall give notice (an "**Issue Notice**") to the Shareholders of the proposed issuance. The Issue Notice shall constitute an offer for subscription by each of the Shareholders of that number of the Affected Securities (in this Section 7.4, its "**Proportionate Entitlement**") which bear the same relationship to the total number of Affected Securities as the number of issued and outstanding Shares held by each such Shareholder bears to the total number of issued and outstanding Shares (as reflected on the securities registers of the Corporation) at the date of the Issue Notices (in this Section 7.4, the "**Notice Date** ") at the subscription price determined by the Board for all those Affected Securities. Each Issue Notice shall:

(i) be made in writing by the Secretary and be made concurrently to all Shareholders in the same manner (whether by delivery, prepaid courier service or facsimile);

(ii) contain a description of the terms and conditions relating to the Affected Securities, the price at which the Affected Securities are offered and the date on which the purchase of the Affected Securities by the Shareholders is to be completed; and

(iii) state that any Shareholder that wishes to subscribe for less than its Proportionate Entitlement shall, in its notice of subscription, specify the number of Affected Securities (up to its Proportionate Entitlement) that it wishes to subscribe for.

The offer constituted by each Issue Notice shall be irrevocable and shall remain open for acceptance by the Shareholders for a period of thirty (30) days after the Notice Date.

(c) Each of the Shareholders shall have the right, exercisable by notice given to the Corporation within the period during which the offer constituted by the Issue Notice is open for acceptance under Section 7.4(b), to accept the offer constituted by the Issue Notice to subscribe for its Proportionate Entitlement of the Affected Securities or, if it wishes to subscribe for less than its Proportionate Entitlement, to indicate how many Affected Securities (up to its Proportionate Entitlement) it wishes to subscribe for. If no notice is given by a Shareholder under this Section 7.4(c), that Shareholder shall be deemed to have rejected the offer made available to it to subscribe for Affected Securities.

(d) If any of the Shareholders does not agree to purchase all of its Proportionate Entitlement of the Affected Securities or is deemed to have rejected the offer made available to it to subscribe for Affected Securities (in this Section 7.4, a

"**Declining Offeree**"), the Corporation shall forthwith so notify in writing (in this Section 7.4, the "**Additional Notice**") each of the other Shareholders which has accepted the offer to subscribe for not less than its Proportionate Entitlement of the Affected Securities (in this Section 7.4, a "**Purchasing Shareholder**"). Each of the Purchasing Shareholders shall have the right to subscribe for that number or any part thereof, of the Affected Securities that have not been accepted for subscription by the Declining Offerees (the "**Unsubscribed Securities**") which bears the same relationship to the total number of Unsubscribed Securities as the number of Shares held by each such Purchasing Shareholder bears to the total number of Shares by all Purchasing Shareholders (as reflected on the securities registers of the Corporation) at the date of the Additional Notice. Any Purchasing Shareholder that receives an Additional Notice shall have the right, exercisable by notice given to the Corporation within a period of ten (10) days after deemed receipt of that Additional Notice pursuant to Section 15.1, to agree that it will purchase the number of Unsubscribed Securities which it is entitled to purchase or any lesser number thereof specified by it in that notice. If no notice is given by a Purchasing Shareholder under this Section 7.4 within that ten (10) day period, that Purchasing Shareholder shall be deemed to have rejected the offer made available to it to purchase any Unsubscribed Securities. No Shareholder shall be obliged to purchase any Affected Securities in excess of the number indicated in its subscription.

(e) If any Affected Securities of any issue are not subscribed for prior to the expiry of the last applicable period pursuant to Sections 7.4(c) and 7.4(d), the Corporation may offer those unsubscribed for Affected Securities within a period of ninety (90) days after the expiration of the last applicable period pursuant to Sections 7.4(c) and 7.4(d) to any Person, but the price at which those Affected Securities may be issued shall not be less than the subscription price offered to the Shareholders and the terms of payment for those unsubscribed for Affected Securities shall not be more favourable to that Person than the terms of payment offered to the Shareholders.

(f) If the Corporation proposes to grant an option or other right for the purchase of or subscription for Affected Securities, that option or other right shall also be made available to Shareholders in accordance with Sections 7.4(b) through 7.4(e).

(g) The Corporation shall be entitled to issue additional Shares without complying with the provisions of this Section 7.4 when those Shares are being issued on the exercise of existing options or rights to purchase or subscribe for Shares.

ARTICLE 8 - RIGHT OF FIRST REFUSAL

8.1 **First Right of Refusal:**

(a) Any Shareholder (hereinafter in this Article 8 referred to as the "**Selling Shareholder**") who desires to transfer or sell all, but not less than all, of its Shares (hereinafter in this Article 8 referred to as the "**Offered Shares**") shall give notice of such proposed sale (hereinafter in this Article 8 referred to as the "**Sale Notice**") to the Corporation and to the other Shareholders and shall set out in the Sale Notice the terms upon which and the price at which it desires to sell the Offered Shares (such price being hereinafter in this Article 8 referred to as the "**Purchase Price**"). A Shareholder selling Shares under this Section 8.1 must sell all, and not less than all, of its Offered Shares, unless the other Shareholders otherwise agree.

(b) Upon the Sale Notice being given, the other Shareholders (hereinafter in this Article 8 referred to as the "**Remaining Shareholders**") shall have the right to purchase all, but not less than all, of the Offered Shares for the Purchase Price on a Pro Rata basis as described in Section 8.2.

8.2 **Exercise of Right of First Refusal:** The Remaining Shareholders shall have the option, exercisable by giving written notice of the exercise of such option (hereinafter in this Article 8 referred to as the "**Purchase Notice**") to the Selling Shareholder and the Corporation within ninety (90) days (hereinafter in this Article 8 referred to as the "**Right of First Refusal Period**") subsequent to the date of deemed receipt, pursuant to Section 15.1 hereof, by the Remaining Shareholders of the Sale Notice, to purchase all but not less than all of the Offered Shares, on a Pro Rata basis, determined on the basis of the ratio of the number of Shares owned by each Remaining Shareholder to the number of Shares owned by all Remaining Shareholders at the Purchase Price and the terms set forth in the Sale Notice. If all the Offered Shares have not been purchased by the Remaining Shareholders then the remaining Offered Shares shall be offered to those Remaining Shareholders which have purchased Offered Shares on a Pro Rata basis until all of the Offered Shares have been purchased. The closing of the sale of the Offered Shares shall occur on the first Business Day following the expiry of the sixty (60) day period following the date of deemed receipt, pursuant to Section 15.1 hereof, by the Remaining Shareholders and the Corporation of the Purchase Notice or, if the completion of such sale requires the prior approval of or notice to a third Person or Governmental Authority under Applicable Law or any instrument or agreement, within thirty (30) Business Days after receipt of such approval or required period of notice or on such later date as may be agreed by the Parties.

8.3 **Sale of Shares:** In the event that the Remaining Shareholders do not exercise their right of first refusal pursuant to Section 8.2, the rights of the Remaining Shareholders, subject as hereinafter provided, to purchase the Offered Shares shall forthwith terminate and the Selling Shareholder, subject to the restrictions on transfer or sale specified in Section 13.5 hereof, may sell the Offered Shares to any Person (the "**Prospective Purchaser**") within ninety (90) days after the termination of the Right of First Refusal Period, for a price not less than the Purchase Price and on other terms no more favourable to the Prospective Purchaser than those set forth in the Sale Notice, provided that the Prospective Purchaser agrees prior to such transaction to be

bound by this Agreement and to become a party hereto in place of the Selling Shareholder with respect to the Offered Shares. If the Offered Shares are not sold within such ninety (90) day period, or, if the completion of such sale requires the prior approval of or notice to a third Person or Governmental Authority under Applicable Law or any instrument or agreement, within thirty (30) Business Days after receipt of such approval or any required period of notice, on such terms, the rights of the Remaining Shareholders pursuant to Sections 8.1 and 8.2 shall again take effect and so on from time to time.

8.4 **Moratorium on Sales While Purchase Offer Outstanding:** Once a Shareholder gives a Sale Notice pursuant to Section 8.1 hereof, for a period of one (1) year, no other Shareholder shall be entitled to give a Sale Notice with respect to Shares until such time as the Offered Shares are either sold to the Remaining Shareholders, or a Prospective Purchaser, as the case may be, in accordance with the terms of this Article 8 or the sale of such Shares to the Prospective Purchaser does not occur within the time limits prescribed in Section 8.3. No Shareholder may proceed with any sale of any of the Shares owned by it without complying with the relevant provisions of this Agreement.

ARTICLE 9 – TAG-ALONG/DRAG ALONG RIGHTS

9.1 **Tag-Along Rights**:

(a) In the event that a Shareholder, or Shareholders together, owning a majority of the Shares (the "Majority Shareholder") proposes to sell all of its Shares (the "**Offered Majority Shares**") to an Arm's Length third party (the "**Third Party**") pursuant to Section 8.3, then the Majority Shareholder shall, within thirty (30) days following the expiry of the ninety (90) day period referred to in Section 8.3 of the Corporation, give written notice (the "**Tag-Along Notice**") of the identity of the Third Party and the price and other material terms of the transaction (which shall be consistent with the requirements of Section 8.1) to the owners of less than fifty percent (50%) of the Shares (the "Minority Shareholders"). The Minority Shareholders (each a "Minority Selling Shareholder") may, not later than ninety (90) Business Days after receipt of the Tag-Along Notice, deliver to the Majority Shareholder a notice in writing invoking the provisions of this Section 9.1 (a "**Tag-Along Demand**"). The delivery by a Minority Selling Shareholder of a Tag-Along Demand shall be irrevocable and shall bind such Minority Selling Shareholder to sell all, but not less than all, of the Shares owned by such Minority Selling Shareholder(the "**Tag-Along Shares**"), in accordance with the provisions of this Section 9.1.

(b) If a Minority Shareholder delivers a Tag-Along Demand, then, before completing any sale, the Majority Shareholder shall cause the Third Party to deliver to each Minority Selling Shareholder a bona fide offer in writing (the "**Tag-Along Offer**") to purchase the Tag-Along Shares from such Minority

Selling Shareholder. The Tag-Along Offer will be binding upon the Third Party and shall contain only such terms and conditions as are identical to those upon which the Majority proposes to sell to the Third Party the Offered Majority Shares pursuant to Section 8.3, provided that the offer price per Share, which shall be specified in the Tag-Along Offer, shall be the same consideration as the consideration per Share at which the Majority Selling Shareholder proposes to sell to the Third Party the Offered Majority Shares pursuant to Section 8.3.

(c) The closing date and other closing arrangements for the purchase and sale transaction between the Majority Shareholder and the Third Party shall be specified in the Tag-Along Offer and shall be the same, *mutatis mutandis*, as those specified between the Third Party and the Minority Shareholder.

9.2 **Drag-Along Rights**:

(a) In the event that the Majority Shareholder proposes to sell the Offered Majority Shares to a Third Party pursuant to Section 8.3 and a Minority Shareholder (a "Non-Selling Minority Shareholder)(has not exercised its Tag Along rights under Section 9.1, then the Majority Shareholder may, by written notice to the Non-Selling Minority Shareholders delivered within thirty (30) days following the expiry of the ninety (90) day period referred to in Section 9.1, accompanied by an irrevocable offer (the "**Drag-Along Offer**") from the Third Party to the Non-Selling Minority Shareholders to purchase, for a consideration that is the same as the consideration per Share at which the Majority Shareholder proposes to sell the Offered Majority Shares to the Third Party pursuant to Section 8.3, the Shares owned by the Non-Selling Minority Shareholders (the "**Dragged Shares**"), require the Non-Selling Minority Shareholder to sell to the Third Party all such Dragged Shares at the price specified in the Drag-Along Offer.

(b) The delivery by the Majority Shareholder of an irrevocable Drag-Along Offer shall bind the Non-Selling Minority Shareholder to sell the Dragged Shares. The date on which the sale is to close and the other closing arrangements (which shall be the same, *mutatis mutandis*, as those for the purchase and sale between the Third Party and the Majority Shareholder) shall be as specified in the Drag-Along Offer. Except as specifically provided for above, the Drag-Along Offer shall contain only such terms and conditions, if any, as are identical to those pursuant to which the Majority Shareholder proposes to sell to the Third Party the Offered Shares.

ARTICLE 10- BUY-SELL RIGHTS

10.1 **Buy-Sell:**

(1) Any Shareholder (in this Section 10.1, an "**Offeror**") may give notice (a "**Purchase or Sale Notice**") to the other Shareholders (in this Section 10.1, the "**Other**

Shareholders") of a proposed purchase or sale of Shares. The Purchase or Sale Notice shall constitute an offer (the "**Purchase Offer**") by the Offeror to the Other Shareholders to purchase all but not less than all of the issued and outstanding Shares held by the Other Shareholders at the Notice Date at a specified purchase price per Share (the "**Buy-Sell Share Price**") and shall in the alternative constitute an offer (the "**Sale Offer**") by the Offeror to sell all but not less than all of the issued and outstanding Shares held by the Offeror at the date of the Purchase or Sale Notices (in this Section 10.1, the "**Affected Shares**"; and the date of the Purchase or Sale Notices, in this Section 10.1, the "**Notice Date**") at the Buy-Sell Share Price. The Purchase and Sale Notices shall:

(a) be made in writing by the Offeror and be made concurrently to all Other Shareholders in the same manner (whether by delivery, prepaid courier service or facsimile); and

(b) state the Buy-Sell Share Price.

The offers constituted by each Purchase or Sale Notice shall be irrevocable and shall remain open for acceptance by the Other Shareholders for a period of ninety (90) days after the date of the Purchase and Sale Notice.

(2) Each of the Other Shareholders shall have the right, exercisable by notice (in this Section 10.1, an "**Acceptance**") given to the Offeror within the period during which the offers constituted by the Purchase or Sale Notice is open for acceptance under Section 10.1(1) to accept the Purchase Offer and agree to sell to the Offeror all of that Other Shareholder's issued and outstanding Shares or to reject that offer and to accept the Sale Offer and agree to purchase the Affected Shares. If no Acceptance is given by an Other Shareholder under this Section 10.1(2), that Other Shareholder shall be deemed to have accepted the Purchase Offer constituted by the Purchase or Sale Notice.

(3) If one or more of the Other Shareholders accept the Sale Offer, the Purchase Offer shall be deemed to have been rejected by all of the Other Shareholders. If only one Other Shareholder accepts the Sale Offer, that Other Shareholder shall be deemed to have agreed to purchase all of the Affected Shares. If two or more Other Shareholders accept the Sale Offer (in this Section 10.1, the "**Purchasing Shareholders**"), each of such Purchasing Shareholders shall be deemed to have agreed to purchase that number of the Affected Shares which bears the same relationship to the total number of Affected Shares as the number of issued and outstanding Shares held by each such Purchasing Shareholder bears to the total number of issued and outstanding Shares held by all Purchasing Shareholders (as reflected on the securities registers of the Corporation) at the Notice Date.

(4) The completion of all purchases of Affected Shares or of the Shares held by the Other Shareholders, as the case may be, under this Section 10.1 shall occur on the thirtieth (30th) day after the expiry of the period during which the offers constituted by the Purchase and Sale Notice are open for acceptance.

(5) Once a Shareholder gives a Purchase or Sale Notice, no Other Shareholder may give a Purchase or Sale Notice with respect to Shares, until such time as either the Affected Shares are sold to the Purchasing Shareholders or the Shares held by the Other Shareholders are sold to the Offeror pursuant to this Section 10.1.

ARTICLE 11 - PUT OPTION

11.1 **Put Option:**

(a) The Shareholders other than the Majority Shareholder (in this Section 11.1, the "**Other Shareholders**") shall have the irrevocable right and option (the "**Put Option**") by notice to Majority Shareholder and the Corporation with a copy to the other Shareholders, to force the purchase by the Majority Shareholder or the Corporation, of all of the Shares held by that Other Shareholder at a total purchase price equal to the Put Option Price described in Section 11.1(b) below. The closing of the Put Option shall occur on the thirtieth (30th) day after the deemed receipt of notice of the exercise of the Put Option pursuant to Section 15.1 by the Majority Shareholder and the Corporation.

(b) The "**Put Option Price**" for the purposes of this Article 11 shall mean the fair market value of each Share in which the Shareholder is deemed to have exercised the Put Option. Such Put Option Price shall be determined in a manner provided in Schedule A with the sixty (60) days immediately following the date of exercise of the Put Option.

ARTICLE 12 - PURCHASE OF SHARES ON DEEMED WITHDRAWAL

12.1 **Deemed Withdrawal from the Corporation:**

(a) Subject to 12.1(b), for the purposes of this Article 12, a Shareholder shall be deemed to withdraw from the Corporation on that date (the "Withdrawal Date") when such Shareholder,

(i) or its Controlling Shareholder: (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar Applicable Law for the protection of creditors, including, the *Bankruptcy and Insolvency Act* (Canada) and the *Companies Creditors Arrangement Act* (Canada), the *Municipal Affairs Act* (Ontario) or other statute applicable to insolvent municipalities or has such petition filed against it and such petition is not withdrawn or dismissed for sixty (60) days after such filing; (ii) otherwise becomes bankrupt or insolvent (however evidenced); or (iii) is unable to pay its debts as they fall due;

(ii) fails, refuses or neglects to conform materially to any of the terms and conditions of this Agreement, and fails to remedy any such default within thirty (30) days of the deemed receipt, pursuant to Section 15.1 hereof, of a written notice from any other Shareholder giving details of such default; or (iii) has all or any portion of its Shares of the Corporation realized upon by an encumbrancer.

(b) The Shareholders may unanimously agree to waive the provisions of this Article 12 with respect to any Shareholder that would otherwise have been deemed to withdraw from the Corporation pursuant to Section 12.1(a)

12.2 **Purchase of Shares on a Shareholder's Withdrawal from the Corporation:** In the event that a Shareholder is deemed to have withdrawn from the Corporation pursuant to the provisions of Section 12.1(a) hereof and the Shareholders have not agreed to waive the application of this Article 12 in accordance with Section 12.1(b), the Corporation irrevocably agrees to purchase, on the expiry of the ninety (90) day period following the occurrence of such event, all and not less than all of the Shares of the Shareholder which is deemed to have withdrawn from the Corporation (hereinafter in Section 12.2 referred to as the "**Withdrawing Shareholder**") at the Share Purchase Price. The closing of the sale of the Shares of the Withdrawing Shareholder to the Corporation shall take place at the offices of the Corporation at the address designated in Section 15.1 hereof at 10:00 in the morning (Toronto time) on the first Business Day following the expiry of the aforesaid ninety (90) day period. The Share Purchase Price, determined pursuant to Section 12.4 hereof, shall be paid at such closing in Canadian dollars. In the event that the Corporation is not, at the time of such purchase of Shares, capable of fulfilling its obligations to pay for such Shares, either because it cannot do so in compliance with the OBCA, or other Applicable Law to the same effect, the sale of such Shares to the Corporation shall be completed with the balance of the Share Purchase Price for such Shares to be paid by the Corporation as soon as it is lawfully able to do so.

12.3 **Sale of Shares on Deemed Withdrawal from the Corporation:**

(a) The Withdrawing Shareholder hereby irrevocably offers to sell all of its Shares to the Corporation at a price per Share (hereinafter in this Article 12 the "the Share Purchase Price") determined in the manner provided in Section 12.4 hereof and Schedule A hereto.

(b) In all of the circumstances provided in Section 12.1(a), the remaining Shareholders shall have the right to require that the Corporation assign to them the right or obligation of the Corporation to purchase any or all of the Shares of a Withdrawing Shareholder and, pursuant to such assignment, the remaining Shareholders shall have the right to purchase such Shares, provided that in the opinion of tax counsel to the Corporation, the Withdrawing Shareholder will suffer no significant prejudice from an income tax perspective as a result of such Shares being purchased by the remaining Shareholders rather than by the Corporation.

(c) In the event that the remaining Shareholders purchase such Shares, they shall be entitled to purchase them on a Pro Rata basis in proportion to their respective holdings of Shares or in any other proportion as they may choose, and the provisions of Section 12.2 of this Agreement shall apply *mutatis mutandis* provided however, that no Shareholder shall be obliged to purchase any such Shares.

12.4 **Share Purchase Price Determination:** The Share Purchase Price for the purposes of this Article 12 shall mean the fair market value of each Share as determined at the Withdrawal Date. Such Share Purchase Price shall be determined in the manner provided in Schedule A hereto within the sixty (60) days immediately following the Withdrawal Date.

12.5 **Cancellation of Shares:** Upon the acquisition of any Shares by the Corporation pursuant to this Article 12 of this Agreement, such Shares shall be cancelled and shall not be reissued.

ARTICLE 13 - PROVISIONS APPLICABLE TO SALES OF SHARES PURSUANT TO THIS AGREEMENT

13.1 **Application to All Sales:** Except as, or in addition to, what may otherwise be provided in this Agreement, this Article 13 shall apply to any sale of Shares effected pursuant to the provisions of this Agreement.

13.2 **Closing:** The closing of all sales of Shares effected pursuant to this Agreement shall take place at the offices of the Corporation at the address designated in Section 15.1 hereof, at 10:00 in the morning (Toronto time) on the date stipulated, either pursuant to the provisions hereof or pursuant to any agreement executed in connection with any such sale, as the date on which such closing is to occur.

13.3 **Cancellation of Share Certificates:** The President of the Corporation, or such other officer as may be designated by resolution of the directors of the Corporation shall attend all closings of any such sale of Shares and shall deliver to the Corporation for cancellation share certificates evidencing Shares which are to be sold and shall take custody of new share certificates, if any, issued in replacement of such cancelled share certificates so that at all times the Corporation shall have custody of share certificates representing all of the Shares.

13.4 **Resignation of Seller's Nominees:** At the closing of any sale of Shares, the Shareholder selling its Shares shall cause to be delivered to the Corporation signed resignations of its nominees as directors of the Corporation, and shall assign and transfer to the purchaser of such Shares, all of its right, title and interest in such Shares.

13.5 **Transfer Taxes and Other Tax Impacts of a Proposed Sale:**

(a) In the event that any proposed sale or transfer of Shares would result or results in tax or an amount in respect of payments in lieu of tax being exigible from the Corporation or any Shareholder other than the Shareholder selling its Shares (the "**Non-Selling Shareholder(s)**"), whether transfer tax, income tax, capital tax or other tax (and including any taxes or related expenses resulting from the Corporation no longer being tax exempt pursuant to Section 149(1)(d.6) of the *Income Tax Act* (Canada)), all such tax and expenses shall be an expense to the purchaser which shall indemnify the Corporation with respect thereto, and notwithstanding any other provision of this Agreement to the contrary, the proposed sale or transfer shall not be completed unless all such tax and expenses of the Corporation or any Non-Selling Shareholder are first paid in full by the purchaser ; provided that if a proposed sale or transfer is pursuant to the Article 11 Put Option or the Article 12 Deemed Withdrawal, any eligible tax is payable by the Selling Shareholder and the provisions above shall apply *mutatis mutandis*.

(b) A Shareholder selling Shares to any Person shall, as required by the Electricity Act or any other Applicable Law, pay all transfer taxes payable under the Electricity Act in respect of such sale such that the sale shall not be void.

13.6 **Additional Provisions: Loans, Guarantees:** In conjunction with any sale of all Shares:

(a) if the Shareholder selling all of its Shares is indebted to the Corporation, the Corporation may, at its option, require such Shareholder to repay in full all indebtedness which it owes to the Corporation on or before the closing of such sale of Shares;

(b) if the Corporation is indebted to the Shareholder selling all of its Shares, the Shareholder selling Shares may, at its option, require the Corporation to repay in full all indebtedness which it owes to such Shareholder on or before the closing of such sale of Shares; and

(c) if the Shareholder selling all of its Shares has provided a guarantee, letter of credit, security or other financial assistance to the Corporation, the Corporation shall use its commercially reasonable efforts to replace or release such guarantee, letter of credit, security or other financial assistance within ninety (90) days after the closing of such sale of Shares.

ARTICLE 14 - NON-COMPETITION AND CONFIDENTIALITY

14.1 **Non-Competition:** During the period commencing as of the date of this Agreement and terminating on the expiry of the twelve (12) months following the date on which a Shareholder:

(a) is deemed to withdraw from the Corporation, pursuant to Section 14.1 of this Agreement; or

(b) sells all of its Shares in accordance with this Agreement,

such Shareholder shall not, and shall use its commercially reasonable efforts to ensure that its shareholders do not, individually or in partnership or in conjunction with any Person, as principal, agent, shareholder, consultant or otherwise, directly or indirectly, carry on or be engaged in, or advise, acquire an interest in, or permit its name or any part thereof to be used or employed by an association, syndicate or corporation engaged in or concerned with or interested in, the business of distributing electricity as regulated by the OEB unless the consent of the other Shareholders has first been obtained.

14.2 **Necessary Covenants:** Each Shareholder hereby confirms that all restrictions in this Article 14 are reasonable and valid, that they are necessary for the protection of the Corporation's legitimate interests and that they do not unduly affect their earning capacity, and waive all defences to the strict enforcement thereof.

14.3 **Confidential Information:** The Shareholders hereby acknowledge that they have had and will have access to confidential information and trade secrets concerning the Business, the Corporation, and the Corporation's Affiliates (as defined in the OBCA), if any, and their customers and suppliers (hereinafter in this Article 14 referred to as the "**Information**") and they each undertake and agree that they shall not, and their Controlling Shareholder shall not, directly or indirectly, use, disclose or divulge to any Person or other entity any of the Information otherwise than in the Ordinary Course of Business of the Corporation, and its Affiliated Bodies Corporate and as may be required by Applicable Law or order of any Governmental Authority.

14.4 **Survival of Obligations:** The obligations and covenants in this Article 14 shall survive the termination of this Agreement.

ARTICLE 15 - NOTICES

15.1 **Notices:** Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be given by facsimile or other means of electronic communication or by hand-delivery as provided below. Any such notice or other communication, if sent by facsimile or other means of electronic communication, shall be deemed to have been received on the Business Day following the sending, or if delivered by hand, shall be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address shall also be governed by this Section 11.1. Notices and other communications shall be addressed as follows:

(a) in the case of PWPI:

4548 Ontario Street
Unit 2
Beamsville, ON L0R 1B5

Attention: President
Fax No.: 905-563-0838

(b) in the case of NFHC:

7447 Pin Oak Drive
P.O. Box 120
Niagara Falls, ON L2E 6S9

Attention: President
Fax No.: 905-356-0118

(c) in the case of the Corporation:

7447 Pin Oak Drive
P.O. Box 120
Niagara Falls, ON L2E 6S9

Attention: President
Fax No.: 905-356-0118

Notwithstanding the foregoing, any notice of arbitration permitted to be given by any party pursuant to or in connection with any arbitration procedures in Section 16.2 may only be delivered by hand. Normal communications during the arbitration process itself may be delivered by facsimile, regular mail or by hand-delivery. The failure to send or deliver a copy of a notice to counsel shall not invalidate any notice given under this Section 15.

ARTICLE 16- DISPUTE RESOLUTION

16.1 **Disputes:** Each Shareholder shall appoint one or more representatives who shall be responsible for administering this Agreement on its behalf and for representing its respective interests in disputes relating to this Agreement. Any dispute between Shareholders relating to this Agreement that is not resolved between such representatives within ten (10) Business Days of a date that a Party notifies the other Party of such dispute shall be referred by the Parties' representatives in writing to the senior management of each Shareholder for resolution. Such senior management shall use good faith efforts to resolve the dispute for a period of up to ten (10) Business Days.

16.2 **Arbitration:** If a dispute is not resolved by the procedure set forth in Section 16.1 above, such dispute may, by any Party, be referred to and resolved by arbitration by a single arbitrator in accordance with the provisions of the *Arbitration Act, 1991* (Ontario), subject to the following modifications and additions:

(a) The arbitration shall take place in the Province of Ontario, and shall be conducted in English;

(b) The arbitration shall be conducted by a single arbitrator having no financial, business or personal interest in the outcome of the arbitration. The arbitrator shall be appointed jointly by agreement of the parties to such dispute. In the event the parties to such dispute are unable to agree on the appointment of the arbitrator within ten (10) days after notice of a demand for arbitration is given by a party and agreed to by the other parties to such dispute, then the arbitrator shall be selected pursuant to the provisions of the *Arbitration Act, 1991* (Ontario).

(c) The arbitrator shall have the authority to award any remedy or relief that a court could order or grant in accordance with this Agreement including, without limitation, specific performance of any obligation, the issuance of an interim, interlocutory or permanent injunction, or the imposition of sanctions for abuse or frustration of the arbitration process.

(d) The arbitrator shall have sole and exclusive jurisdiction to examine into, hear and determine all matters and questions of fact and law in respect of which any powers or authority has been conferred upon the arbitrator, including questions of jurisdiction. The arbitral award shall be in writing, stating the reasons for the award and shall be final and conclusive and is not open to appeal, question or review in any court and any determination by the arbitrator made under this Article is hereby ratified and confirmed and is binding upon all persons. No proceedings by or before the arbitrator shall be restrained by injunction, prohibition or other process or proceeding in any court, or are removable by certiorari or otherwise into any court.

ARTICLE 17 - MISCELLANEOUS

17.1 **Termination:** This Agreement shall terminate upon (a) the written agreement of all the Parties hereto to this effect, (b) the bankruptcy, receivership or dissolution of the Corporation, or (c) the ownership of all the Shares of the Corporation by one Shareholder.

17.2 **Successors and Assigns:** This Agreement shall be binding upon, and enure to the benefit of, the Parties hereto and their respective successors and permitted assigns.

17.3 **Assignment:** Except as specifically provided in this Agreement, none of the Parties hereto may assign its rights or obligations under this Agreement without the prior written consent of all of the other Parties hereto.

17.4 **Time is of the Essence:** Time shall be the essence of this Agreement in all respects.

17.5 **Further Assurances:** Each Party hereto shall promptly do, execute, deliver or cause to be done, executed and delivered all further acts, documents and matters in

connection with this Agreement that the other Parties may reasonably require, for the purposes of giving effect to this Agreement.

17.6 **Counterparts:** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument. Counterparts may be executed either in original or telecopied form and the Parties shall accept any signatures received by a receiving telecopy machine as original signatures of the Parties; provided, however, that any Party providing its signature in such manner shall promptly forward to the other Parties an original of the signed copy of this Agreement which was so telecopied.

17.7 **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. The Parties agree that the courts of Ontario shall have exclusive jurisdiction to determine all disputes and claims arising under or pursuant to this Agreement.

17.8 **Amendments and Waivers:**

(a) No amendment to this Agreement shall be valid or binding unless set forth in writing and duly executed by all of the Parties hereto.

(b) No waiver of any breach of any provision of this Agreement shall be effective or binding unless made in writing and signed by the Party purporting to give the same and, unless otherwise provided in the written waiver, shall be limited to the specific breach waived.

17.9 **Severability:** If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part of such provision and all other provisions hereof shall continue in full force and effect.

[EXECUTION PAGE FOLLOWS]

::ODMA\PCDOCS\TOR01\3324422\8

IN WITNESS WHEREOF the Parties hereto have executed this Agreement as of the day first above written.

NIAGARA FALLS HYDRO HOLDING CORPORATION

By: _____
Name:
Title:

By: _____
Name:
Title:

PENINSULA WEST POWER INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

NIAGARA PENINSULA ENERGY INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

[EXECUTION PAGE TO SHAREHOLDERS AGREEMENT]

SCHEDULE A

VALUATION METHOD

In this Schedule, the vendor and the purchaser of the Shares being sold pursuant to Article 11 or Article 12 of this Agreement are called the "Vendor" and the "Purchaser", respectively.

Negotiation. If the value of the Shares must be established pursuant to any provision of this Agreement, then the Vendor and the Purchaser shall negotiate honestly and in good faith to agree upon the fair market value of the Shares and such value as the parties may agree upon shall be deemed to be the fair market value of these shares for all purposes of this Agreement.

Failure to Agree. If the Vendor and the Purchaser do not agree upon the fair market value of the Shares on or before the 20th Business Day after the date on which the obligation to sell or purchase Shares arises under this Agreement, then the value of the Shares shall be determined in accordance with the following provisions:

(a) the Vendor and Purchaser shall agree on the choice of an independent business valuator who deals at Arm's Length with both the Vendor and Purchaser and has experience in valuing businesses similar to the business carried on by the Corporation ("Valuator") with in a further ten (10) days; provided that if the Vendor and Purchaser do not agree on the choice of a Valuator as specified above, either party may apply to a single Judge of the Ontario Superior Court of Justice who will appoint a Valuator;

(b) the business valuator so selected shall be the "Valuator" for the purposes of this Agreement and shall proceed to determine the fair market value of all of the Shares being sold in accordance with the provisions of this Schedule A.

Valuation by Valuator. The Valuator agreed upon or selected in accordance with this Schedule A to determine the fair market value of the Shares being sold shall act as a business valuator and not as an arbitrator or umpire. The Valuator shall apply such business valuation principles as the Valuator deems appropriate. The Valuator may consult such other expert valuators as it considers advisable. The fair market value of the Shares shall be determined without regard for any restrictions applying to the transfer of Shares. The fees and disbursements of the Valuator shall be borne equally by the Vendor and the Purchaser.

Valuation Conclusive. The determination of the value of the Shares being sold pursuant to this Agreement in accordance with this Schedule A, whether based upon the agreement of the Vendor and the Purchaser or the determination by the Valuator, shall be conclusive and binding upon the Vendor and the Purchaser, and there shall be no appeal from the determination.

BY-LAW NO. 1

A by-law relating generally to the transaction of the business and affairs
of

NIAGARA PENINSULA ENERGY INC.

CONTENTS

Section 1	-	Interpretation
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Section 11	-	Notices
Section 12	-	Documents in Electronic Form
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BE IT ENACTED as a by-law of the Corporation as follows:

SECTION 1
INTERPRETATION

1.1 **Definitions** - In the by-laws of the Corporation, unless the context otherwise requires, capitalized terms used but not defined in this By-Law shall have the meanings attributed to them in the Act, except that:

"**Act**" means the *Business Corporations Act* (Ontario), and any statute that may be substituted therefor, as amended, restated or in effect from time to time;

"**appoint**" includes "**elect**" and vice-versa;

"**articles**" means the original or restated articles of incorporation, articles of amendment, articles of amalgamation, articles of continuance, articles of reorganization, articles of arrangement, articles of dissolution or articles of revival and includes any amendments thereto;

"**Board**" means the board of directors of the Corporation;

"**by-laws**" means this by-law and all other by-laws of the Corporation from time to time in force and effect;

"**Corporation**" means NIAGARA PENINSULA ENERGY INC.;

"**meeting of shareholders**" includes an annual meeting of shareholders or a special meeting of shareholders; "**special meeting of shareholders**" includes a meeting of any class or classes of shareholders and a special meeting of all shareholders entitled to vote at an annual meeting of shareholders;

"**non-business day**" means Saturday, Sunday and any other day that is a holiday as defined in the *Interpretation Act* (Canada) and any statute that may be substituted therefor, as amended, restated or in effect from time to time;

"**recorded address**" means:

(a) in the case of a shareholder, that person's address as recorded in the securities register;

(b) in the case of joint shareholders, the address appearing in the securities register in respect of such joint holding or the first address so appearing if there are more than one; and

(c) in the case of a director, officer, auditor or member of a committee of the Board, that individual's latest address as recorded in the records of the Corporation;

"**Regulations**" means the regulations made under the Act, as amended, restated or in effect from time to time;

"**signing officer**" means, in relation to any instrument, any person authorized to sign the instrument on behalf of the Corporation by Section 2.2 or by a resolution passed pursuant thereto; and

"**unanimous shareholder agreement**" means:

(a) an otherwise lawful written agreement among all the shareholders of the Corporation, or among all the shareholders and one or more persons who are not shareholders, that restricts, in whole or in part, the powers of the directors to manage, or supervise the management of, the business and affairs of the Corporation, as amended, supplemented, restated and replaced from time to time in accordance with its provisions; or

(b) a written declaration made by a person who is the beneficial owner of all of the issued shares of the Corporation that restricts in whole or in part, the powers of the directors to manage, or supervise the management of, the business and affairs of the Corporation, as amended, supplemented, restated and replaced from time to time in accordance with its provisions.

1.2 **Interpretation** - Words in the singular include the plural and vice-versa, words in one gender include all genders, and words importing persons include individuals, bodies corporate, partnerships, trusts and unincorporated organizations.

1.3 **Conflicts** – If any conflict shall appear between the by-laws of the Corporation and the provisions of any unanimous shareholder agreement between the shareholders of the Corporation, the provisions of such unanimous shareholder agreement shall govern.

SECTION 2
BUSINESS OF THE CORPORATION

2.1 **Corporate Seal** - The Corporation may have one or more different corporate seals which may be adopted or changed from time to time by the Board, on which the name of the Corporation appears in the language or one or more of the languages set out in the articles.

2.2 **Execution of Instruments** - Subject to any unanimous shareholder agreement between the shareholders of the Corporation, deeds, transfers, assignments, contracts, obligations, certificates and other instruments may be signed on behalf of the Corporation by any two (2) of the directors or officers. In addition, the Board may from time to time direct the manner in which and the person or persons by whom any particular instrument or class of instruments may or shall be signed. Any signing officer may affix the corporate seal (if any) to any instrument. Any signing officer may certify a copy of any instrument, resolution, by-law or other document of the Corporation to be a true copy thereof.

2.3 **Execution in Counterpart** - Any articles, notice, resolution, requisition, statement or other document required or permitted to be executed in several documents of like form each of which is executed by all persons required or permitted, as the case may be, to do so, shall be deemed to constitute one document and to bear date as of the date of execution thereof by the last person.

2.4 **Banking Arrangements** - The banking business of the Corporation including, without limitation, the borrowing of money and the giving of security therefor, shall be transacted with such banks, trust companies or other bodies corporate or organizations as may from time to time be designated by or under the authority of the Board. Such banking business or any part thereof shall be transacted under such agreements, instructions and delegations of powers as the Board may from time to time prescribe or authorize.

2.5 **Voting Rights in Other Bodies Corporate** - The signing officers of the Corporation may execute and deliver proxies and arrange for the issuance of voting certificates or other evidence of the right to exercise the voting rights attaching to any securities held by the Corporation. Such instruments, certificates or other evidence shall be in favour of such person or persons as may be determined by the officers executing such proxies or arranging for the issuance of voting certificates or such other evidence of the right to exercise such voting rights. In addition, the Board may from time to time direct the manner in which and the person or persons by whom any particular voting rights or class of voting rights may or shall be exercised.

SECTION 3
BORROWING AND SECURITIES

3.1 **Borrowing Power** - Without limiting the borrowing powers of the Corporation as provided by the Act, but subject to the articles and any unanimous shareholder agreement, the Board may from time to time on behalf of the Corporation, without authorization of the shareholders:

(a) borrow money on the credit of the Corporation;

(b) issue, reissue, sell, pledge or hypothecate bonds, debentures, notes or other evidences of indebtedness of the Corporation, whether secured or unsecured;

(c) give a guarantee on behalf of the Corporation to secure performance of any present or future indebtedness, liability or obligation of any person; and

(d) mortgage, hypothecate, pledge or otherwise create a security interest in all or any currently owned or subsequently acquired real or personal, movable or immovable, property of the Corporation including book debts, rights, powers, franchises and undertakings, to secure any such bonds, debentures, notes or other evidences of indebtedness or guarantee or any other present or future indebtedness, liability or obligation of the Corporation.

The Board may from time to time delegate to one or more of the directors and officers of the Corporation as may be designated by the Board all or any of the powers conferred on the Board in this Section 3.1 to the extent and in the manner as the Board shall determine at the time of such delegation.

Nothing in this Section limits or restricts the borrowing of money by the Corporation on bills of exchange or promissory notes made, drawn, accepted or endorsed by or on behalf of the Corporation.

3.2 **Delegation** - Subject to any unanimous shareholder agreement, the Board may from time to time delegate to a committee of the Board, a director or an officer of the Corporation or any other person as may be designated by the Board all or any of the powers conferred on the Board by Section 3.1 or by the Act to such extent and in such manner as the Board shall determine at the time of each such delegation.

SECTION 4
DIRECTORS

4.1 **Number of Directors and Quorum** – Subject to the articles and any unanimous shareholder agreement between the shareholders of the Corporation, the Board shall consist of the number of directors specified in the articles, except that if the articles provide for a minimum and maximum number of directors, the board shall consist of the number of directors determined in accordance with any unanimous shareholder agreement between the shareholders of the Corporation. Subject to Section 4.18 and any unanimous shareholder agreement between the shareholders of the Corporation, a majority of the number of directors so specified or determined shall constitute a quorum at any meeting of the Board.

4.2 **Qualification** - No person shall be qualified for election as a director:

(a) if the person is less than 18 years of age;

(b) if the person has been found under the *Substitute Decisions Act*, 1992 (Ontario) or under the *Mental Health Act* (Ontario) to be incapable of managing property or who has been found to be incapable by a court in Canada or elsewhere;

(c) if the person is not an individual; or

(d) if the person has the status of a bankrupt.

Subject to the articles, a director need not be a shareholder. Subject to the Act, at least 25% of the directors must be resident Canadians. If the Corporation has less than four directors, at least one director must be a resident Canadian.

4.3 **Election and Term** - Subject to any unanimous shareholder agreement between the shareholders of the Corporation, the election of directors shall take place at the first meeting of shareholders and at each annual meeting of shareholders and all the directors then in office shall retire but, if qualified, shall be eligible for re-election. The election shall be by resolution. If an election of directors is not held at the proper time, the incumbent directors shall continue in office until their successors are elected.

4.4 **Removal of Directors** – Subject to any unanimous shareholder agreement between the shareholders of the Corporation, the shareholders may by ordinary resolution passed at an annual or special meeting remove any director from office and the vacancy created by such removal may be filled at the same meeting failing which it may be filled by the Board.

4.5 **Vacation of Office** - Subject to any unanimous shareholder agreement between the shareholders of the Corporation, a director ceases to hold office when such director: (a) dies or, subject to the Act, resigns; (b) is removed from office by the shareholders in accordance with any unanimous shareholder agreement between the shareholders of the Corporation; or (c) ceases to be qualified for election as a director in accordance with the Act. A resignation of a director becomes effective at the time a written resignation is sent or delivered to the Corporation or the time specified in such resignation, whichever is later.

4.6 **Vacancies** - Subject to the Act, the articles and any unanimous shareholder agreement between the shareholders of the Corporation, a quorum of the Board may fill a vacancy in the Board, except a vacancy resulting from:

(a) an increase in the number of directors, unless the directors are authorized to determine the number of directors and the appointment of an additional director would not result in a total number of directors greater than one and one-third times the number of directors required to have been elected at the last annual meeting of shareholders;

(b) an increase in the maximum number of directors; or

(c) a failure of the shareholders to elect the number of directors required to be elected at any meeting of shareholders.

Subject to any unanimous shareholder agreement between the shareholders of the Corporation, in the absence of a quorum of the Board, or if the vacancy has arisen from a failure of the shareholders to elect the number of directors required to be elected at any meeting of shareholders, the Board shall forthwith call a special meeting of shareholders to fill the vacancy. If the Board fails to call such meeting or if there are no directors then in office, any shareholder may call the meeting.

4.7 **Action by the Board** - Subject to any unanimous shareholder agreement, the Board shall manage, or supervise the management of, the business and affairs of the Corporation. Subject to Section 4.8, the powers of the Board may be exercised by resolution passed at a meeting at which a quorum is present or by resolution in writing signed by all the directors entitled to vote on that resolution at a meeting of the Board. Where there is a vacancy in the Board, the remaining

directors may exercise all the powers of the Board so long as a quorum remains in office. Where the Corporation has only one director, that director may constitute a meeting.

4.8 **Meeting by Communications Facilities** - If all the directors of the Corporation consent, a meeting of the Board or of a committee of the Board may be held by means of such telephone, electronic or other communications facilities as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and a director participating in such a meeting by such means is deemed to be present at the meeting. Any such consent shall be effective whether given before or after the meeting to which it relates and may be given with respect to all meetings of the Board and committees of the Board. If a majority of directors participating in a meeting held under this Section are then in Canada, the meeting shall be deemed to be held in Canada.

4.9 **Place of Meetings** - Meetings of the Board may be held at any place within or outside Ontario. In any financial year of the Corporation, a majority of the meetings of the Board need not be held in Canada.

4.10 **Calling of Meetings** - Subject to any unanimous shareholder agreement between the shareholders of the Corporation, meetings of the Board shall be held from time to time at such time and at such place as the Board, the chairman of the Board, the president, a vice-president or any two directors may determine.

4.11 **Notice of Meeting** - Notice of the time and place of each meeting of the Board shall be given in the manner provided in Section 11.1 to each director not less than 48 hours before the time when the meeting is to be held. A notice of a meeting of directors need not specify the purpose of or the business to be transacted at the meeting except where the Act requires such purpose or business to be specified. A director may in any manner waive notice of a meeting of the Board, and attendance of a director at a meeting constitutes a waiver of notice, except where the director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

4.12 **First Meeting of New Board** - Provided a quorum of directors is present, each newly elected Board may without notice hold its first meeting immediately following the meeting of shareholders at which such Board is elected.

4.13 **Adjourned Meeting** - Notice of an adjourned meeting of the Board is not required if the time and place of the adjourned meeting is announced at the original meeting.

4.14 **Regular Meetings** - The Board may appoint a day or days in any month or months for regular meetings of the Board at a place and hour to be named. A copy of any resolution of the Board fixing the place and time of such regular meetings shall be sent to each director forthwith after being passed, but no other notice shall be required for any such regular meeting except where the Act requires the purpose thereof or the business to be transacted thereat to be specified.

4.15 **Meetings Without Notice.** A meeting of the Board may be held at any time and place permitted by the Act or the articles or the by-laws without notice or on shorter notice than that provided for in this by-law, and proceedings at such meeting shall not be invalidated if all the directors are present in person (except where a director attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called) or if not so present have received notice, or before or after the meeting or the

time prescribed for the notice of such meeting, in writing waive notice of or accept short notice of such meeting.

4.16 **Chairman** - The chairman of any meeting of the Board shall be the first mentioned of such of the following officers as have been appointed and who is a director and is present at the meeting: chairman of the Board, president, or a vice-president. If no such officer is present, the directors present shall choose one of their number to be chairman.

4.17 **Votes to Govern** - Subject to any unanimous shareholder agreement between the shareholders of the Corporation, at all meetings of the Board every question shall be decided by a majority of the votes cast on the question of those directors entitled to vote. In case of an equality of votes the chairman of the meeting shall not be entitled to a second or casting vote.

4.18 **Conflict of Interest** - A director or officer who:

(a) is a party to; or

(b) is a director or an officer of, or has a material interest in, any person who is a party to;

a material contract or transaction or proposed material contract or transaction with the Corporation shall disclose the nature and extent of such director's or officer's interest at the time and in the manner provided by the Act. Any such contract or transaction or proposed material contract or transaction shall be referred to the Board or shareholders for approval in accordance with the Act even if such contract or proposed material contract or transaction is one that in the ordinary course of the Corporation's business would not require approval by the Board or shareholders, and a director interested in a contract or transaction so referred to the Board shall not attend any part of a meeting of the Board during which the contract or transaction is discussed and shall not vote on any resolution to approve such contract or transaction except as provided by the Act.

4.19 **Remuneration and Expenses** - Subject to the articles and any unanimous shareholder agreement, the directors shall be paid such remuneration for their services as the Board may from time to time determine. The directors shall also be entitled to be reimbursed for travelling and other expenses properly incurred by them in attending meetings of the Board or any committee thereof. Nothing herein contained shall preclude any director from serving the Corporation in any other capacity and receiving remuneration therefor in that capacity.

SECTION 5
DELEGATION

5.1 **Committee of Directors** - The Board may appoint a committee of directors and delegate to such committee any of the powers of the Board except those which, under the Act, a committee of directors has no authority to exercise.

5.2 **Transaction of Business** - The powers of a committee of directors may be exercised by a meeting at which a quorum is present or by resolution in writing signed by all the members of such committee who would have been entitled to vote on that resolution at a meeting of the committee. Meetings of such committee may be held at any place within or outside Ontario.

5.3 **Procedure** - Unless otherwise determined by the Board, each committee shall have the power to fix its quorum at not less than a majority of its members, to elect its chairman and to regulate its procedure.

SECTION 6
OFFICERS

6.1 **Appointment** - Subject to the articles and any unanimous shareholder agreement, the Board may from time to time appoint a chairman of the Board, president, chief financial officer, one or more vice-presidents (to which title may be added words indicating seniority or function), a secretary, a treasurer and such other officers as the Board may determine, including one or more assistants to any of the officers so appointed. The Board may specify the duties of and, in accordance with this by-law and subject to the Act, the articles and any unanimous shareholder agreement, delegate to such officers powers to manage the business and affairs of the Corporation. Subject to Section 6.2, an officer may but need not be a director and one person may hold more than one office.

6.2 **Chairman of the Board** - The Board may from time to time also appoint a chairman of the Board who shall be a director. If appointed, the Board may assign to the chairman any of the powers and duties that are by any provision of this by-law assigned to the president; and the chairman shall, subject to the Act, have such other powers and duties as the Board may specify. During the absence or disability of the chairman of the Board, the chairman's duties shall be performed and the chairman's powers exercised by the president.

6.3 **President** - If appointed, the president shall be the chief executive officer and, subject to the authority of the Board, shall have general supervision of the business of the Corporation; and the president shall have such other powers and duties as the Board may specify. During the absence or disability of the chairman, or if no chairman has been appointed, the president shall also have the powers and duties of that office.

6.4 **Chief Financial Officer** – If appointed, the chief financial officer shall keep proper accounting records in compliance with the Act and shall be responsible for the deposit of money, the safekeeping of securities and the disbursement of the funds of the Corporation; the chief financial officer shall render to the Board whenever required an account of all transactions as chief financial officer and of the financial position of the Corporation; and shall have such other powers and duties as the Board or the chief executive officer may specify.

6.5 **Vice-President** - If appointed, a vice-president shall have such powers and duties as the Board or the chief executive officer may specify.

6.6 **Secretary** - If appointed, the secretary shall attend and be the secretary of all meetings of the Board, shareholders and committees of the Board and shall enter or cause to be entered in records kept for that purpose minutes of all proceedings thereat; the secretary shall give or cause to be given, as and when instructed, all notices to shareholders, directors, officers, auditors and members of committees of the Board; the secretary shall be the custodian of the stamp or mechanical device generally used for affixing the corporate seal of the Corporation and of all books, papers, records, documents and instruments belonging to the Corporation, except when some other officer or agent has been appointed for that purpose; and the secretary shall have such other powers and duties as the Board or the chief executive officer may specify.

6.7 **Treasurer** - If appointed, the treasurer shall have such powers and duties as the Board or the chief financial officer may specify. During the absence or disability of the chief financial officer, or if no chief financial officer has been appointed, the treasurer shall have the powers and duties of that office.

6.8 **Powers and Duties of Other Officers** - The powers and duties of all other officers shall be such as the terms of their engagement call for or as the Board or the chief executive officer may specify. Any of the powers and duties of an officer to whom an assistant has been appointed may be exercised and performed by such assistant, unless the Board or the chief executive officer otherwise directs.

6.9 **Variation of Powers and Duties** - The Board may from time to time and subject to the Act, vary, add to or limit the powers and duties of any officer.

6.10 **Term of Office** - The Board, in its discretion, may remove any officer of the Corporation, without prejudice to such officer's rights under any employment contract. Otherwise each officer appointed by the Board shall hold office until such officer's successor is appointed, or until such officer's earlier resignation.

6.11 **Terms of Employment and Remuneration** - The terms of employment and the remuneration of officers appointed by the Board shall be settled by it from time to time.

6.12 **Conflict of Interest** - An officer who:

(a) is a party to; or

(b) is an officer of, or has a material interest in, any person who is a party to;

a material contract or transaction or proposed material contract or transaction with the Corporation shall disclose the nature and extent of such officer's interest at the time and in the manner provided by the Act.

6.13 **Agents and Attorneys** - The Board shall have power from time to time to appoint agents or attorneys for the Corporation in or outside Canada with such powers of management or otherwise (including the power to sub-delegate) as may be thought fit.

6.14 **Fidelity Bonds** - The Board may require such officers, employees and agents of the Corporation as the Board deems advisable to furnish bonds for the faithful discharge of their powers and duties, in such form and with such surety as the Board may from time to time determine.

SECTION 7
PROTECTION OF DIRECTORS, OFFICERS AND OTHERS

7.1 **Limitation of Liability** - No director or officer shall be liable for the acts, receipts, neglects or defaults of any other director or officer or employee, or for joining in any receipt or other act for conformity, or for any loss, damage or expense happening to the Corporation through the insufficiency or deficiency of title to any property acquired for or on behalf of the Corporation, or for the insufficiency or deficiency of any security in or on which any of the moneys of the Corporation shall be invested, or for any loss or damage arising from the bankruptcy, insolvency or tortious acts of any person with whom any of the moneys, securities or

effects of the Corporation shall be deposited, or for any loss occasioned by any error of judgment or oversight on such individual's part, or for any other loss, damage or misfortune whatever which shall happen in the execution of the duties of such individual's office or in relation thereto; provided that nothing herein shall relieve any director or officer from the duty to act in accordance with the Act and the Regulations or from liability for any breach thereof.

7.2 **Indemnity** - Subject to the Act, the Corporation shall indemnify a director or officer of the Corporation, a former director or officer of the Corporation or another individual who acts or acted at the Corporation's request as a director or officer, or an individual acting in a similar capacity, of another entity, and such person's heirs and legal representatives, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by the individual in respect of any civil, criminal, administrative, investigative or other proceeding in which the individual is involved because of that association with the Corporation or other entity, if:

(a) the individual acted honestly and in good faith with a view to the best interests of the Corporation or, as the case may be, to the best interest of the other entity for which the individual acted as a director or officer or in a similar capacity at the Corporation's request; and

(b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, the person had reasonable grounds for believing that the individual's conduct was lawful.

7.3 **Insurance** - Subject to the Act, the Corporation may purchase and maintain such insurance for the benefit of its directors and officers as such, as the Board may from time to time determine.

SECTION 8
SHARES

8.1 **Allotment** - Subject to the Act, the articles and any unanimous shareholder agreement, the Board may from time to time allot or grant options to purchase the whole or any part of the authorized and unissued shares of the Corporation at such times and to such persons and for such consideration as the Board shall determine, provided that no share shall be issued until it is fully paid as provided by the Act.

8.2 **Commissions** - The Board may from time to time authorize the Corporation to pay a reasonable commission to any person in consideration of such person purchasing or agreeing to purchase shares of the Corporation, whether from the Corporation or from any other person, or procuring or agreeing to procure purchasers for any such shares.

8.3 **Registration of Transfer** - Subject to the Act, no transfer of shares shall be registered in a securities register except on presentation of the certificate representing such shares with an endorsement which complies with the Act, together with such reasonable assurance or evidence of signature, identification and authority to transfer as the Board may from time to time prescribe, on payment of all applicable taxes and any fees prescribed by the Board, on compliance with such restrictions on transfer as are authorized by the articles and on satisfaction of any lien referred to in Section 8.5.

8.4 **Transfer Agents and Registrars** - The Board may from time to time appoint a registrar to maintain the securities register and a transfer agent to maintain the register of transfers and may also appoint one or more branch registrars to maintain branch securities registers and one or more branch transfer agents to maintain branch registers of transfers, but one person may be appointed both registrar and transfer agent. The Board may at any time terminate any such appointment.

8.5 **Lien for Indebtedness** - If the articles provide that the Corporation shall have a lien on shares registered in the name of a shareholder indebted to the Corporation, such lien may be enforced, subject to any other provision of the articles and to any unanimous shareholder agreement, by the sale of the shares thereby affected or by any other action, suit, remedy or proceeding authorized or permitted by law or by equity and, pending such enforcement, the Corporation may refuse to register a transfer of the whole or any part of such shares.

8.6 **Non-recognition of Trusts** - Subject to the Act, the Corporation may treat the person in whose name a share is registered in the securities register as the person exclusively entitled to vote, to receive notices, to receive any dividend or other payments in respect of the share and otherwise to exercise all the rights and powers of an owner.

8.7 **Security Certificates** - Every holder of one or more securities of the Corporation shall be entitled, at the security holder's option, to a security certificate, or to a non-transferable written acknowledgement of such security holder's right to obtain a security certificate, stating the number and class or series of securities held by such security holder as shown on the securities register. Security certificates and acknowledgements of a security holder's right to a security certificate, respectively, shall be in such form as the Board shall from time to time approve. Any security certificate shall be signed in accordance with Section 2.2 and need not be under the corporate seal; provided that, unless the Board otherwise determines, certificates representing securities in respect of which a transfer agent and/or registrar has been appointed shall not be valid unless countersigned by or on behalf of such transfer agent and/or registrar. The signature of one of the signing officers or, in the case of security certificates which are not valid unless countersigned by or on behalf of a transfer agent and/or registrar, the signatures of both signing officers, may be printed or mechanically reproduced in facsimile on security certificates and every such facsimile signature shall for all purposes be deemed to be the signature of the officer whose signature it reproduces and shall be binding on the Corporation. A security certificate executed as aforesaid shall be valid notwithstanding that one or both of the officers whose facsimile signature appears thereon no longer holds office at the date of issue of the certificate.

8.8 **Replacement of Security Certificates** - The Board or any officer or agent designated by the Board may in its or such person's discretion direct the issue of a new security certificate in lieu of and on cancellation of a security certificate that has been mutilated or in substitution for a security certificate claimed to have been lost, destroyed or wrongfully taken on payment of such fee, not exceeding the amount prescribed by the Regulations, and on such terms as to indemnity, reimbursement of expenses and evidence of loss and of title as the Board may from time to time prescribe, whether generally or in any particular case.

8.9 **Joint Security Holders** - If two or more persons are registered as joint holders of any security, the Corporation shall not be bound to issue more than one certificate in respect thereof, and delivery of such certificate to one of such persons shall be sufficient delivery to all of them. Any one of such persons may give effectual receipts for the certificate issued in respect thereof or for any dividend, bonus, return of capital or other money payable or warrant issuable in respect of such security.

8.10 **Deceased Security Holders** - In the event of the death of a holder, or of one of the joint holders, of any security, the Corporation shall not be required to make any entry in the securities register in respect thereof or to make payment of any dividends thereon except on production of all such documents as may be required by law and on compliance with the reasonable requirements of the Corporation and its transfer agents.

SECTION 9
DIVIDENDS AND RIGHTS

9.1 **Dividends** - Subject to the Act and any unanimous shareholder agreement between the shareholders of the Corporation, the Board may from time to time declare dividends payable to the shareholders according to their respective rights and interests in the Corporation. Dividends may be paid in money or property or by issuing fully paid shares of the Corporation.

9.2 **Dividend Cheques** - A dividend payable in money shall be paid by cheque drawn on the Corporation's bankers or one of them to the order of each registered holder of shares of the class or series in respect of which it has been declared and mailed by prepaid ordinary mail to such registered holder at such registered holder's recorded address, unless such holder otherwise directs. In the case of joint holders the cheque shall, unless such joint holders otherwise direct, be made payable to the order of all of such joint holders and mailed to them at their recorded address. The mailing of such cheque as aforesaid, unless the same is not paid on due presentation, shall satisfy and discharge the liability for the dividend to the extent of the sum represented thereby plus the amount of any tax which the Corporation is required to and does withhold.

9.3 **Non-receipt of Cheques** - In the event of non-receipt of any dividend cheque by the person to whom it is sent as aforesaid, the Corporation shall issue to such person a replacement cheque for a like amount on such terms as to indemnity, reimbursement of expenses and evidence of non-receipt and of title as the Board may from time to time prescribe, whether generally or in any particular case.

9.4 **Record Date for Dividends and Rights** - The Board may fix in advance a date, preceding by not more than 50 days, the date for the payment of any dividend or the date for the issue of any warrant or other evidence of the right to subscribe for securities of the Corporation, as a record date for the determination of the persons entitled to receive payment of such dividend or to exercise the right to subscribe for such securities, provided that notice of any such record date shall be given, not less than 7 days before such record date. Where no record date is fixed so, the record date for the determination of the persons entitled to receive payment of any dividend or to exercise the right to subscribe for securities of the Corporation shall be at the close of business on the day on which the resolution relating to such dividend or right to subscribe is passed by the Board.

9.5 **Unclaimed Dividends** - Any dividend unclaimed after the expiry of the applicable limitation period shall be forfeited and shall revert to the Corporation.

SECTION 10
MEETINGS OF SHAREHOLDERS

10.1 **Annual Meetings** - The annual meeting of shareholders shall be held at such time in each year and, subject to Section 10.3, at such place as the Board, may from time to time determine, for the purpose of considering the financial statements and reports required by the Act to be

placed before the annual meeting, electing directors, appointing auditors and for the transaction of such other business as may properly be brought before the meeting.

10.2 **Special Meetings** - The Board, the chairman of the Board or the president shall have power to call a special meeting of shareholders at any time.

10.3 **Place of Meetings** – Subject to the articles and any unanimous shareholder agreement, meetings of shareholders shall be held at the registered office of the Corporation or, if the Board shall so determine, at some other place in Ontario or, at some place outside Ontario if all the shareholders entitled to vote at the meeting so agree. A meeting of shareholders held under Section 10.4 is deemed to be held at the place where the registered office is located.

10.4 **Participation by Electronic Means** - If the Corporation chooses to make available a telephonic or electronic facility that permits all participants to communicate adequately with each other during a meeting of shareholders, any shareholder entitled to attend such meeting may participate in the meeting by means of such telephonic or electronic communication facility. A shareholder, who through such means votes at the meeting or establishes a communications link to the meeting is deemed to be present at the meeting. Notwithstanding any other provision of this by-law, any person participating in a meeting of shareholders pursuant to this Section who is entitled to vote at that meeting may vote, in accordance with the Act and the Regulations, by means of any telephonic, electronic or other communication facility that the Corporation has made available for that purpose.

10.5 **Notice of Meetings** - Notice of the time and place of each meeting of shareholders shall be given in the manner provided in Section 11.1 not less than 10 nor more than 50 days before the date of the meeting, or within such other period as may be provided by the Act or prescribed by the Regulations to each director, to the auditor and to each shareholder who at the close of business on the record date for notice, is entered in the securities register as the holder of one or more shares carrying the right to vote at the meeting. Notice of a meeting of shareholders called for any purpose other than consideration of the financial statements and auditors report, election of directors and reappointment of the incumbent auditors shall state the nature of such business in sufficient detail to permit the shareholder to form a reasoned judgment thereon and shall state the text of any special resolution to be submitted to the meeting.

10.6 **List of Shareholders Entitled to Notice** - For every meeting of shareholders, the Corporation shall prepare within the time specified by the Act a list of shareholders entitled to receive notice of the meeting, arranged in alphabetical order and showing the number of shares held by each shareholder. If a record date for notice is fixed pursuant to Section 10.7, the shareholders listed shall be those registered at the close of business on such record date. If no record date for notice is so fixed, the shareholders listed shall be those registered (a) at the close of business on the day immediately preceding the day on which notice of the meeting is given, or (b) on the day on which the meeting is held where no such notice is given. The list shall be available for examination by any shareholder during usual business hours at the registered office of the Corporation or at the place where the central securities register is maintained and at the meeting for which the list was prepared.

10.7 **Record Date for Notice** The Board may fix in advance a date, preceding the date of any meeting of shareholders by not less than 21 days and not more than 50 days, as a record date for the determination of the shareholders entitled to notice of the meeting, and notice of any such record date shall be given not less than 7 days before such record date by newspaper advertisement and written notice in the manner provided by the Act. If no record date for notice

is so fixed, the record date for the determination of the shareholders entitled to notice of the meeting shall be (a) at the close of business on the day immediately preceding the day on which notice of the meeting is given, or (b) on the day on which the meeting is held where no such notice is given.

10.8 **Meetings without Notice** - A meeting of shareholders may be held at any time and place permitted by the Act without notice or on shorter notice than that provided for herein, and proceedings thereat shall not be invalidated (a) if all the shareholders entitled to vote thereat are present in person or represented by proxy (other than as expressly to object that the meeting is not lawfully called) or if those not present in person or represented by proxy waive notice before or after the meeting or the time prescribed for the notice thereof, in writing of such meeting being held, and (b) if the auditors and the directors are present or if those not present, waive notice of or otherwise consent to such meeting being held. At such a meeting any business may be transacted which the Corporation at a meeting of shareholders may transact. If the meeting is held at a place outside Ontario, shareholders not present in person or represented by proxy, but who have waived notice of such meeting, shall also be deemed to have consented to the meeting being held at such place.

10.9 **Chairman, Secretary and Scrutineers** - The chairman of any meeting of shareholders shall be the first mentioned of such of the following officers as have been appointed and who is present at the meeting: president, chairman of the Board, or a vice-president who is a director. If no such officer is present within 15 minutes from the time fixed for holding the meeting, the persons present and entitled to vote shall choose one of their number to be chairman. If the secretary of the Corporation is absent, the chairman shall appoint some person, who need not be a shareholder, to act as secretary of the meeting. If desired, one or more scrutineers, who need not be shareholders, may be appointed by a resolution or by the chairman with the consent of the meeting.

10.10 **Persons Entitled to be Present** - The only persons entitled to attend a meeting of shareholders shall be those entitled to vote thereat, the directors and auditor of the Corporation and others who, although not entitled to vote, are entitled or required under the Act or the articles or by-laws to be present at the meeting. Any other person may be admitted only on the invitation of the chairman of the meeting or with the consent of the meeting.

10.11 **Quorum** - Subject to the Act and any unanimous shareholder agreement between the shareholders of the Corporation, a quorum for the transaction of business at any meeting of shareholders shall be one person present in person, being a shareholder entitled to vote thereat or a duly appointed representative or proxyholder for an absent shareholder so entitled, and holding or representing in the aggregate not less than a majority of the outstanding shares of the Corporation entitled to vote at the meeting. If a quorum is present at the opening of any meeting of shareholders, the shareholders present in person or represented by proxy may proceed with the business of the meeting notwithstanding that a quorum is not present throughout the meeting. If a quorum is not present at the opening of any meeting of shareholders, the shareholders present in person or represented by proxy may adjourn the meeting to a fixed time and place, but may not transact any other business.

10.12 **Right to Vote** - Subject to the Act as to authorized representatives of any other body corporate or association, at any meeting of shareholders for which the Corporation must prepare a list referred to in Section 10.6, every person who is named in such list shall be entitled to vote the shares shown opposite such person's name.

10.13 **Proxies** - Every shareholder entitled to vote at a meeting of shareholders may appoint a proxyholder, or one or more alternate proxyholders, who need not be shareholders, to attend and act at the meeting in the manner and to the extent authorized and with the authority conferred by the proxy. A proxy shall be in writing executed by the shareholder or such shareholder's attorney and shall conform with the Act. Every such shareholder which is a body corporate or association may by resolution of its directors or governing body authorize an individual who need not be a shareholder to represent it at a meeting of shareholders and such individual may exercise on the shareholder's behalf all the powers it could exercise if it were an individual shareholder. The authority of such an individual shall be established by depositing with the Corporation a certified copy of such resolution, or in such other manner as may be satisfactory to the secretary of the Corporation or the chairman of the meeting.

10.14 **Time for Deposit of Proxies** - The Board may specify in a notice calling a meeting of shareholders a time, preceding the time of such meeting by not more than 48 hours exclusive of non-business days, before which time proxies to be used at such meeting must be deposited. A proxy shall be acted on only if, prior to the time so specified, it shall have been deposited with the Corporation or an agent thereof specified in such notice or, if no such time is specified in such notice, unless it has been received by the secretary of the Corporation or by the chairman of the meeting or any adjournment thereof prior to the time of voting.

10.15 **Joint Shareholders** - If two or more persons hold shares jointly, one of them present in person or represented by proxy at a meeting of shareholders may, in the absence of the other or others, vote the shares; but if two or more of those persons are present in person or represented by proxy and vote, they shall vote as one on the shares jointly held by them.

10.16 **Votes to Govern** – Subject to any unanimous shareholder agreement between the shareholders of the Corporation, at any meeting of shareholders every question shall, unless otherwise required by the articles or by-laws or by law, be determined by a majority of the votes cast on the question. In case of an equality of votes either on a show of hands or on a ballot or on results of electronic voting, the chairman of the meeting shall not be entitled to a second or casting vote.

10.17 **Show of Hands** - Subject to the Act, any question at a meeting of shareholders shall be decided by a show of hands unless a ballot thereon is required or demanded as hereinafter provided. On a show of hands every person who is present and entitled to vote shall have one vote. Whenever a vote by show of hands shall have been taken on a question, unless a ballot thereon is so required or demanded, a declaration by the chairman of the meeting that the vote on the question has been carried or carried by a particular majority or not carried and an entry to that effect in the minutes of the meeting shall be *prima facie* evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against any resolution or other proceeding in respect of the question, and the result of the vote so taken shall be the decision of the shareholders on the question.

10.18 **Ballots** - On any question proposed for consideration at a meeting of shareholders, and whether or not a show of hands has been taken thereon, the chairman may require a ballot of any person present or any shareholder or proxyholder entitled to vote on such question at the meeting may demand a ballot. A ballot so demanded shall be taken in such manner as the chairman shall direct. A demand for a ballot may be withdrawn at any time prior to the taking of the ballot. If a ballot is taken each person present shall be entitled, in respect of the shares which such person is entitled to vote at the meeting on the question, to that number of votes provided by the Act or the

articles, and the result of the ballot so taken shall be the decision of the shareholders on the question.

10.19 **Adjournment** - If a meeting of shareholders is adjourned by one or more adjournments for an aggregate of less than 30 days it is not necessary to give notice of the adjourned meeting other than by announcement at the time of an adjournment. If a meeting of shareholders is adjourned by one or more adjournments for an aggregate of 30 days or more but not more than 90 days, notice of the adjourned meeting shall be given as for an original meeting but the management of the Corporation shall not be required to send a form of proxy in the form provided by the Act to each shareholder who is entitled to receive notice of the meeting.

10.20 **Resolution in Writing** - A resolution in writing signed by all the shareholders entitled to vote on that resolution at a meeting of shareholders is as valid as if it had been passed at a meeting of the shareholders unless a written statement with respect to the subject matter of the resolution is submitted by a director or the auditors in accordance with the Act.

10.21 **Only One Shareholder** - Where the Corporation has only one shareholder or only one holder of any class or series of shares, the shareholder present in person or by proxy constitutes a meeting.

SECTION 11
NOTICES

11.1 **Method of Giving Notices** - Any notice (which term includes any communication or document) to be given (which term includes sent, delivered or served) pursuant to the Act, the Regulations, the articles, the by-laws or otherwise to a shareholder, director, officer or member of a committee of the Board or to the auditors shall be sufficiently given if delivered personally to the person to whom it is to be given or if delivered to such person's recorded address or if mailed to such person at such person's recorded address by prepaid ordinary or air mail or if sent to such person at such person's recorded address by facsimile or if provided to such person by electronic means in accordance with the *Electronic Commerce Act, 2002* (Ontario). A notice so delivered shall be deemed to have been given when it is delivered personally or to the recorded address as aforesaid; a notice so mailed shall be deemed to have been received by the addressee on the fifth day after mailing; and a notice so provided by electronic means (including by facsimile) shall be deemed to have been sent and received in the manner and at the time specified in the *Electronic Commerce Act, 2002* (Ontario). The secretary may change or cause to be changed the recorded address of any shareholder, director, officer, auditor or member of a committee of the Board in accordance with any information believed by the secretary to be reliable.

11.2 **Notice to Joint Shareholders** - If two or more persons are registered as joint holders of any share, any notice shall be addressed to all of such joint holders but notice to one of such persons shall be sufficient notice to all of them.

11.3 **Computation of Time** - In computing the date when notice must be given under any provision requiring a specified number of days notice of any meeting or other event, the date of giving the notice shall be excluded and the date of the meeting or other event shall be included.

11.4 **Undelivered Notices** - If any notice given to a shareholder pursuant to Section 11.1 is returned on two consecutive occasions because such shareholder cannot be found, the Corporation shall not be required to give any further notices to such shareholder until such shareholder informs the Corporation in writing of such shareholder's new address.

11.5 **Omissions and Errors** - The accidental omission to give any notice to any shareholder, director, officer, auditor or member of a committee of the Board or the non-receipt of any notice by any such person or any error in any notice affecting the substance thereof shall invalidate any action taken at any meeting held pursuant to such notice or otherwise founded thereon.

11.6 **Persons Entitled by Death or Operation of Law** - Every person who, by operation of law, transfer, death of a shareholder or any other means whatsoever, shall become entitled to any share, shall be bound by every notice in respect of such share which shall have been duly given to the shareholder from whom such person derives title to such share prior to such person's name and address being entered on the securities register (whether such notice was given before or after the happening of the event on which such person became so entitled) and prior to such person furnishing to the Corporation the proof of authority or evidence of entitlement provided by the Act.

11.7 **Waiver of Notice** - Any shareholder, (or such shareholder's duly appointed proxyholder), director, officer, auditors or member of a committee of the Board may at any time waive any notice, or waive or abridge the time for any notice, required to be given to such person under the Act, the Regulations, the articles, the by-laws or otherwise and such waiver or abridgement, whether given before or after the meeting or other event of which notice is required to be given, shall cure any default in the giving or in the time of such notice, as the case may be. Any such waiver or abridgement shall be in writing or by electronic means in accordance with the *Electronic Commerce Act, 2002* (Ontario) except a waiver of notice of a meeting of shareholders or of the Board or of a committee of the Board which may be given in any manner.

SECTION 12
EFFECTIVE DATE

12.1 **Effective Date** - This by-law shall be effective when made by the Board.

[EXECUTION PAGES FOLLOW]

THE FOREGOING BY-LAW is consented to by all the directors of the Corporation pursuant to the Act, as evidenced by such directors' signatures hereto.

DATED as of the day of , 200 .

Janie Palmer

Wayne Campbell

Wayne Thomson

Carolynn Ioannoni

Brian Walker

Russell Lowden

George Mitges

Peter Wicks

THE FOREGOING BY-LAW is confirmed by all the shareholders of the Corporation pursuant to the Act, as evidenced by such shareholders' signatures hereto.

DATED as of the day of , 200 .

NIAGARA FALLS HYDRO ~~HOLDING~~ CORPORATION

per: _____
Name:
Title:

per: _____
Name: BRIAN WILKIE
Title: President

PENINSULA WEST POWER INC.

per: _____
Name: W. BRIAN WALKER
Title: PRESIDENT

per: _____
Name:
Title:

RECEIVED
JUN 01 2007
Pen West Utilities
Per

TOWN OF LINCOLN
4800 South Service Road
Beamsville, ON L0R 1B1
TEL: 905-563-8205
FAX: 905-563-8566

May 29, 2007

Mr. Brian Walker, President
Peninsula West Utilities Limited
4548 Ontario Street, Unit 2
Beamsville, ON L0R 1B5

Dear Sir:

Re: Merger of Peninsula West Utilities Limited and Niagara Falls Hydro Inc.

The Council of the Town of Lincoln, at its meeting of May 22, 2007, approved the following motion:

"Whereas all of the Municipal shareholders of the Peninsula West corporate family approved in principle the merger term sheet in May 2006 and authorized Peninsula West to proceed with the negotiation of the merger of Peninsula West Utilities Limited and Niagara Falls Hydro Inc;

And whereas Niagara Falls Hydro Inc, has undertaken a similar approval process;

And whereas Peninsula West Utilities Limited and Niagara Falls Hydro Inc, have conducted due diligence and, with the advice of counsel, negotiated the Merger Agreement, Shareholder Agreement and the Municipal Co-operation Agreement in accordance with the requirements of the term sheet;

And whereas each corporation has retained its own counsel to review the agreements;

And whereas the Province of Ontario granted, in October 2006, a two year transfer tax exemption for the merger of municipally owned electricity distribution companies;

Now therefore be it resolved,
That the Council of the Town of Lincoln hereby approves the merger of Peninsula West Utilities and Niagara Falls Hydro Inc, in accordance with the indicated Merger, Shareholder and Municipal Co-operation Agreements and subject to the approval of the Ontario Energy Board;

And that a by-law be prepared authorizing the Mayor and Clerk to execute the Municipal Co-operation Agreement and other documents necessary to effect the merger".

A copy of By-law No. 07-45 is attached for your information.

Please forward any documents for execution by the Corporation of the Town of Lincoln.

Yours truly,

William J. Kolasa
Director of Corporate Services/Clerk

WJK/cr
Encl.

THE CORPORATION OF THE TOWN OF LINCOLN

BY-LAW NO. 07-45

A BY-LAW TO PROVIDE FOR THE MERGER OF PENINSULA WEST UTILITIES LIMITED AND NIAGARA FALLS HYDRO INC.

WHEREAS the Town of Lincoln is a Municipal Shareholder of the Peninsula West corporate family of companies;

AND WHEREAS all of the Municipal shareholders of the Peninsula West corporate family approved in principle the merger term sheet in May 2006 and authorized Peninsula West to proceed with the negotiation of the merger of Peninsula West Utilities Limited and Niagara Falls Hydro Inc;

AND WHEREAS Niagara Falls Hydro Inc., has undertaken a similar approval process;

AND WHEREAS Peninsula West Utilities Limited and Niagara Falls Hydro Inc., have conducted due diligence and, with the advice of counsel, negotiated the Merger Agreement, Shareholder Agreement and the Municipal Co-operation Agreement in accordance with the requirements of the term sheet;

AND WHEREAS each Corporation has retained its own counsel to review the agreements;

AND WHEREAS the Province of Ontario granted, in October 2006, a two year transfer tax exemption for the merger of municipally owned electricity distribution companies;

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWN OF LINCOLN HEREBY ENACTS AS FOLLOWS:

1. That the Council of the Town of Lincoln hereby approves the merger of Peninsula West Utilities and Niagara Falls Hydro Inc., in accordance with the indicated Merger Shareholder and Municipal Co-operation Agreements and subject to the approval of the Ontario Energy Board.

2. That the Mayor and Clerk be authorized to execute a Municipal Co-operation Agreement and other documents necessary to effect the merger.

BY-LAW read a FIRST time this 22nd day of May, 2007.
BY-LAW read a SECOND time this 22nd day of May, 2007.
BY-LAW read a THIRD time and FINALLY PASSED this 22nd day of May, 2007.

MAYOR: BILL HODGSON

CLERK: WILLIAM J. KOLASA

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À l'usage exclusif du ministère

Ontario Corporation Number
Numéro de la société en Ontario

1

Form 4
Business Corporations Act

Formule 4
Loi sur les sociétés par actions

ARTICLES OF AMALGAMATION
STATUTS DE FUSION

1. The name of the amalgamated corporation is: (Set out in BLOCK CAPITAL LETTERS)
Dénomination sociale de la société issue de la fusion (écrire en LETTRES MAJUSCULES SEULEMENT) :

NIAGARA PENINSULA ENERGY INC.

2. The address of the registered office is:
Adresse du siège social :

7447 Pin Oak Drive

(Street & Number or R.R. Number & if Multi-Office Building give Room No.)
(Rue et numéro, ou numéro de la R.R. et, s'il s'agit d'un édifice à bureaux, numéro du bureau)

Niagara Falls **Ontario** L2E 6S9

(Name of Municipality or Post Office)
(Nom de la municipalité ou du bureau de poste)

(Postal Code / *Code postal*)

3. Number of directors is/are: **or** minimum and maximum number of directors is/are:
Nombre d'administrateurs : **ou** *nombres minimum et maximum d'administrateurs :*

Number **or** Nombre **ou**	minimum and maximum *minimum et maximum*
	4 | 12

4. The director(s) is/are:
Administrateur(s) :

First name, middle names and surname *Prénom, autres prénoms et nom de famille*	Address for service, giving Street & No. or R.R. No., Municipality, Province, Country and Postal Code *Domicile élu, y compris la rue et le numéro ou le numéro de la R.R., le nom de la municipalité, la province, le pays et le code postal*	Resident Canadian State 'Yes' or 'No' *Résident canadien Oui/Non*
Janie Palmer	4667 Portage Road, Unit 12 Niagara Falls, Ontario L2E 6A9	Yes
Wayne Campbell	4889 Armoury Street Niagara Falls, Ontario L2E 1S9	Yes
Wayne Thomson	6305 Stonefield Park Niagara Falls, Ontario L2J 4K1	Yes

07121 (08/2005)

4. The director(s) is/are:
Administrateur(s) :

First name, middle names and surname *Prénom, autres prénoms et nom de famille*	Address for services, giving street & No. or R.R. No., Municipality, Province, Country and Postal code. *Domicile élu, y compris la rue et le numéro ou le numéro de la R.R., le nom de la municipalité, la province, le pays et le code postal*	Resident Canadian State 'Yes' or 'No' *Résident canadien Oui/Non*
Carolynn Ioannoni	6086 Burdette Drive East Niagara Falls, Ontario L2E 5G7	Yes
Brian Walker	57 Canboro Road Fonthill, Ontario L0S 1E0	Yes
Russell Lowden	2243 Allan Road, Caistor Centre, Ontario L0R 1E0	Yes
George Mitges	3615 Victoria Avenue Vineland, Ontario L0R 2C0	Yes
Peter Wicks	5093 St. Georges Drive Beamsville, Ontario L0R 1B7	Yes

5. **Check A or B**
Cocher A ou B

[x] A) The amalgamation agreement has been duly adopted by the shareholders of each of the amalgamating corporations as required by subsection 176 (4) of the *Business Corporations Act* on the date set out below.

A) Les actionnaires de chaque société qui fusionnne ont dûment adopté la convention de fusion conformément au paragraphe 176(4) de la Loi sur les sociétés par actions *à la date mentionnée ci-dessous.*

or
ou

[ ] B) The amalgamation has been approved by the directors of each amalgamating corporation by a resolution as required by section 177 of the *Business Corporations Act* on the date set out below.

B) Les administrateurs de chaque société qui fusionne ont approuvé la fusion par voie de résolution conformément à l'article 177 de la Loi sur les sociétés par actions *à la date mentionnée ci-dessous.*

The articles of amalgamation in substance contain the provisions of the articles of incorporation of
Les statuts de fusion reprennent essentiellement les dispositions des statuts constitutifs de

and are more particularly set out in these articles.
et sont énoncés textuellement aux présents statuts.

Names of amalgamating corporations *Dénomination sociale des sociétés qui fusionnent*	Ontario Corporation Number *Numéro de la société en Ontario*	Date of Adoption/Approval *Date d'adoption ou d'approbation* Year / année Month / mois Day / jour
Niagara Falls Hydro Inc.	1410318	December 28, 2007
Peninsula West Utilities Limited	1446688	December 31, 2007

6. Restrictions, if any, on business the corporation may carry on or on powers the corporation may exercise.
Limites, s'il y a lieu, imposées aux activités commerciales ou aux pouvoirs de la société.

None.

7. The classes and any maximum number of shares that the corporation is authorized to issue:
Catégories et nombre maximal, s'il y a lieu, d'actions que la société est autorisée à émettre :

The corporation is authorized to issue an unlimited number of Common Shares.

8. Rights, privileges, restrictions and conditions (if any) attaching to each class of shares and directors authority with respect to any class of shares which may be issued in series:
Droits, privilèges, restrictions et conditions, s'il y a lieu, rattachés à chaque catégorie d'actions et pouvoirs des administrateurs relatifs à chaque catégorie d'actions qui peut être émise en série :

Voting Rights

The holders of the Common Shares shall be entitled to receive notice of and to attend and vote at all meetings of the shareholders of the Corporation, and each such share shall confer the right to one vote in person or by proxy at all meetings of the shareholders of the Corporation.

Dividends

The holders of the Common Shares shall be entitled to receive dividends as and when declared by the directors from time to time out of moneys of the Corporation properly applicable to the payment of dividends, and the amount per share of each such dividend shall be determined by the directors of the corporation at the time of declaration.

Return of Capital

In the event of the liquidation, dissolution or winding up of the corporation or other distribution of its assets among the shareholders by way of repayment of capital, whether voluntary or involuntary, the holders of the Common Shares shall be entitled to receive the remaining property of the corporation.

9. The issue, transfer or ownership of shares is/is not restricted and the restrictions (if any) are as follows:
L'émission, le transfert ou la propriété d'actions est/n'est pas restreint. Les restrictions, s'il y a lieu, sont les suivantes :

The transfer of shares is subject to the restrictions on the transfer of securities set out in paragraph 10.

10. Other provisions, (if any):
Autres dispositions, s'il y a lieu :

(a) No securities (other than non-convertible debt securities) of the corporation shall at any time be transferred to any person without the consent of the directors of the corporation to be signified by a resolution passed by the board or by an instrument or instruments in writing signed by a majority of the directors.

(b) The corporation is a corporation pursuant to section 142(1) of the Electricity Act, 1998 (Ontario).

11. The statements required by subsection 178(2) of the *Business Corporations Act* are attached as Schedule "A".
Les déclarations exigées aux termes du paragraphe 178(2) de la Loi sur les sociétés par actions *constituent l'annexe A.*

12. A copy of the amalgamation agreement or directors' resolutions (as the case may be) is/are attached as Schedule "B".
Une copie de la convention de fusion ou les résolutions des administrateurs (selon le cas) constitue(nt) l'annexe B.

These articles are signed in duplicate.
Les présents statuts sont signés en double exemplaire.

Names of the amalgamating corporations and signatures and descriptions of office of their proper officers.
Dénomination sociale des sociétés qui fusionnent, signature et fonction de leurs dirigeants régulièrement désignés.

NIAGARA FALLS HYDRO INC.

per: _____
Name: Brian Wilkie
Title: President

per: _____
Name: Maria Assunta (Sue) Forcier
Title: Secretary

per: _____
Name: Suzanne Wilson
Title: Treasurer

PENINSULA WEST UTILITIES LIMITED

per: _____
Name: Brian Walker
Title: President

per: _____
Name:
Title:

SCHEDULE "A"

STATEMENT OF [DIRECTOR / OFFICER]

I, Brian Wilkie, state as follows:

1. This Statement is made pursuant to subsection 178(2) of the *Business Corporations Act* (Ontario) (the "**Act**").

2. I am the President of Niagara Falls Hydro Inc. ("**NFHI**") and as such have knowledge of its affairs.

3. I have conducted such examinations of the books and records of NFHI and of Peninsula West Utilities Limited ("**PWUL**") (the "**Amalgamating Corporations**") and have made such enquiries and investigations as are necessary to enable me to make the statements hereinafter set forth.

4. There are reasonable grounds for believing that:

(a) each of the Amalgamating Corporations is and the corporation to be formed by their amalgamation (the "**Amalgamated Corporation**") will be able to pay its liabilities as they become due;

(b) the realizable value of the assets of the Amalgamated Corporation will not be less than the aggregate of its liabilities and stated capital of all classes; and

(c) no creditor of either of the Amalgamating Corporations will be prejudiced by such amalgamation.

DATED the 28th day of December, 2007.

Brian Wilkie, President
Niagara Falls Hydro Inc.

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SCHEDULE "A"

STATEMENT OF OFFICER

I, **KAREN BUBISH**, state as follows:

1. This Statement is made pursuant to subsection 178(2) of the *Business Corporations Act* (Ontario) (the "**Act**").

2. I am the Chief Operating Officer and Treasurer of Peninsula West Utilities Limited ("**PWUL**") and as such have knowledge of its affairs.

3. I have conducted such examinations of the books and records of PWUL and Niagara Falls Hydro Inc. ("**NFHI**") (the "**Amalgamating Corporations**") and have made such enquiries and investigations as are necessary to enable me to make the statements hereinafter set forth.

4. There are reasonable grounds for believing that:

   (a) each of the Amalgamating Corporations is and the corporation to be formed by their amalgamation (the "**Amalgamated Corporation**") will be able to pay its liabilities as they become due;

   (b) the realizable value of the assets of the Amalgamated Corporation will not be less than the aggregate of its liabilities and stated capital of all classes; and

   (c) no creditor of either of the Amalgamating Corporations will be prejudiced by such amalgamation.

DATED the 28th day of December, 2007.

Karen Bubish

KAREN BUBISH
Chief Operating Officer and Treasurer

SCHEDULE "B"

AMALGAMATION AGREEMENT

THIS AGREEMENT made the 31st day of December, 2007.

B E T W E E N

NIAGARA FALLS HYDRO INC., a corporation existing under the laws of Ontario

(hereinafter called **"NFHI"**)

-and-

PENINSULA WEST UTILITIES LIMITED, a corporation existing under the laws of Ontario

(hereinafter called **"PWUL"**)

BACKGROUND FACTS:

A. NFHI and PWUL (collectively, the "**Amalgamating Corporations**") are each governed by the *Business Corporations Act* (Ontario) (the "**Act**");

B. The Amalgamating Corporations, acting under the authority contained in the Act, have agreed to amalgamate upon the terms and conditions hereinafter set out;

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. In this Agreement, the expression the "**Corporation**" means the Corporation continuing from the amalgamation of the Amalgamating Corporations.

2. Effective as of 12:00:01 a.m on January 1, 2008 the Amalgamating Corporations shall amalgamate under the provisions of Section 174 of the Act and continue as one corporation on and subject to the terms and conditions set out below.

3. The name of the Corporation shall be Niagara Peninsula Energy Inc.

4. The registered office of the Corporation shall be in the City of Niagara Falls, in the Province of Ontario and shall be located at 7447 Pin Oak Drive, P.O. Box 102, Niagara Falls, ON, L2E 6S9.

5. The Corporation is authorized to issue an unlimited number of common shares. The rights, privileges, restrictions and conditions attaching to the common shares and directors authority with respect to the common shares are set out in Schedule 1 attached hereto.

6. No securities of the Corporation (other than non-convertible debt securities), shall at any time be transferred to any person without the consent of the directors of the Corporation to be signified either by a resolution passed by the board or by an instrument or instruments in writing signed by a majority of the directors.

7. The minimum number of directors of the Corporation shall be four (4) and the maximum number of directors shall be twelve (12). The first directors of the Corporation shall be the following persons:

Name	Address for Service	Resident Canadian
Janie Palmer	4667 Portage Road, Unit 12 Niagara Falls, ON L2E 6A9	YES
Wayne Campbell	4889 Armoury St. Niagara Falls, ON L2E 1S9	YES
Wayne Thomson	6305 Stonefield ParkNiagara Falls, ON L2J 4K1	YES
Carolynn Ioannoni	6086 Burdette Drive East Niagara Falls, ON L2E 5G7	YES
Brian Walker	57 Canboro Rd, Fonthill, ON L0S 1E0	YES
Russell Lowden	2243 Allan Rd, Caistor Centre, ON L0R 1E0	YES
George Mitges	3615 Victoria Avenue, Vineland, ON, L0R 2C0	YES
Peter Wicks	5093 St. Georges Dr., Beamsville, ON L0R 1B7	YES

8. There shall be no restrictions on the business that the Corporation may carry on or on the powers that the Corporation may exercise.

9. The Corporation is a corporation pursuant to Section 142(1) of the *Electricity Act, 1998* (Ontario).

10. Upon the amalgamation becoming effective, the holders of the issued shares of the Amalgamating Corporations shall receive shares of the Corporation, as follows:

(a) the holder of the 1000 issued and outstanding common shares of NFHI shall receive 745 issued and outstanding common shares of the

Corporation on the basis of 0.745 common shares of the Corporation for one common share of NFHI so held; and

(b) the holder of the 100 issued and outstanding common shares of PWUL shall receive 255 issued and outstanding commonshares of the Corporation on the basis of 2.55 common shares of the Corporation for one common share of PWUL so held.

11. The by-laws of the Corporation shall not be those of either of the Amalgamating Corporations. The proposed by-laws of the Corporation may be inspected at 7447 Pin Oak Drive, Niagara Falls, ON, L2E 6S9.

12. The shareholders of the Amalgamating Corporations having approved this Agreement in accordance with the provisions of the Act, the Amalgamating Corporations shall complete and send articles of amalgamation in the prescribed form to the Director under the Act, providing for the amalgamation of the Amalgamating Corporations on and subject to the terms and conditions of this Agreement.

13. This Agreement may not be modified in any manner except by instrument in writing signed by the Amalgamating Corporations which specifically refers to this Agreement and its amendment provided such amendment is approved by a special resolution of each of the Amalgamating Corporations.

[EXECUTION PAGE FOLLOWS]

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THIS AGREEMENT has been duly executed by the parties as of the date first stated above.

By: _____

NIAGARA FALLS HYDRO INC.

By: _____

By: _____

PENINSULA WEST UTILITIES LIMITED

By: _____

By: _____

SCHEDULE 1

Voting Rights

The holders of the Common Shares shall be entitled to receive notice of and to attend and vote at all meetings of the shareholders of the Corporation, and each such share shall confer the right to one vote in person or by proxy at all meetings of shareholders of the Corporation.

Dividends

The holders of the Common Shares shall be entitled to receive dividends as and when declared by the directors from time to time out of moneys of the Corporation properly applicable to the payment of dividends, and the amount per share of each such dividend shall be determined by the directors of the Corporation at the time of declaration.

Return of Capital

In the event of the liquidation, dissolution or winding up of the Corporation or other distribution of its assets among the shareholders by way of repayment of capital, whether voluntary or involuntary, the holders of the Common Shares shall be entitled to receive the remaining property of the Corporation.

EB-2007-0749

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 Niagara Falls Hydro Inc. and Peninsula West Utilities Limited under section 86 of the *Ontario Energy Board Act*, *1998* seeking an order for leave to amalgamate;

AND IN THE MATTER OF an application by Niagara Falls Hydro Inc. and Peninsula West Utilities Limited under section 60 of the *Ontario Energy Board Act*, *1998* seeking the issuance of a new electricity distribution licence to the amalgamated corporation, Niagara Peninsula Energy Inc.

BEFORE: Gordon Kaiser
Presiding member and Vice Chair

Bill Rupert
Member

DECISION AND ORDER

On September 4, 2007, Niagara Falls Hydro Inc. ("NFHI") and Peninsula West Utilities Limited ("Pen West"), both licensed electricity distributors, filed an application with the Ontario Energy Board (the "Board") under section 86(1)(c) of the *Ontario Energy Board Act, 1998* (the "Act") seeking leave to amalgamate NFHI and Pen West.

NFHI and Pen West have also applied for the issuance of a licence for the amalgamated entity, which will be called Niagara Peninsula Energy Inc., under section 60 of the Act.

If approval of the amalgamation is granted and if the transaction closes, NFHI and Pen West have requested the cancellation of their Electricity Distributor Licences (ED-2002-0551 and ED-2002-0555, respectively) pursuant to section 77(5) of the Act.

NFHI owns and operates an electricity distribution system in the City of Niagara Falls. Pen West owns and operates an electricity distribution system in the Town of Lincoln, the Town of Pelham, and the Township of West Lincoln. A map showing the service territories of the two distributors is contained in Appendix A.

Currently, NFHI is wholly owned by Niagara Falls Hydro Holding Corporation, which in turn is wholly owned by the City of Niagara Falls. Pen West is wholly owned by Peninsula West Power Inc., which in turn is owned by the municipalities of the Town of Lincoln, the Town of Pelham, and the Township of West Lincoln.

Upon approval and completion of the proposed transaction, Niagara Falls Hydro Holding Corporation and Peninsula West Power Inc. would hold 74.5 and 25.5 percent of the shares, respectively, of the amalgamated utility. The post-amalgamation corporate structure is shown in Appendix B.

A Notice of Application and Written Hearing was published as directed by the Board. No interventions were filed in response to the notice. The Board received two letters of comment.

The Board proceeded by way of a written hearing.

Board Findings

The full record of this proceeding is available for review at the Board's offices. While the Board has considered the full record, the Board has summarized and referred only to those portions of the record that it considers helpful to provide context to its findings.

The "No Harm" Test

Section 86(1)(c) of the Act provides that no transmitter or distributor, without first obtaining an order from the Board granting leave, shall amalgamate with any other corporation.

In determining whether to approve this application, the Board has been guided by the principles set out in the Board's decision in the combined MAADs proceeding (Board File Numbers RP-2005-0018/EB-2005-0234/EB-2005-0254/EB-2005-0257). In that decision, the Board ruled that the "no harm" test is the relevant test for purposes of applications for leave to acquire shares or amalgamate under section 86 of the Act. The "no harm" test consists of a consideration as to whether the proposed transaction would have an adverse effect relative to the status quo in relation to the Board's statutory objectives. If the proposed transaction would have a positive or neutral effect on the attainment of the statutory objectives, then the application should be granted. The factors to be considered are those set out in section 1 of the Act, namely

1. to protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service; and

2. to promote economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity and to facilitate the maintenance of a financially viable electricity industry.

NFHI and Pen West submitted that they anticipate that the proposed transaction will:

- reduce current operational expenses and assist in avoiding future costs by eliminating duplicative services (i.e., billing systems) and creating economies of scale;

- improve the utilization of existing resources and improve distribution system planning;

- improve the reliability of the distribution system, enhance customer service, and provide a greater emergency response capability by combining resources and employee expertise; and

- result in customers benefiting from a larger, centrally located service centre in West Lincoln which will provide for improved customer service and response times during emergencies.

With respect to the financial aspects of the transaction, NFHI and Pen West noted that the amalgamated company will incur a $1.1 million liability due to harmonizing employee benefit plans. There will also be an unspecified amount of legal fees associated with the amalgamation. The applicants estimate net annual cost savings post-amalgamation of $350,358. The application does not specify the period over which the net cost savings are expected to persist.

A projected balance sheet of the amalgamated entity shows that no new debt will be introduced into the capital structure as a result of the amalgamation.

NFHI and Pen West indicated that the amalgamated company will harmonize rates across its service territory within five years of the closing of the transaction. They also stated that rate harmonization will be examined when the amalgamated company's rates are rebased, which they expected to be in 2010. On December 14, 2007, NFHI and Pen West informed the Board that the amalgamated company may file for rate rebasing effective in 2009 rather than 2010.

In decisions on other applications for approvals of mergers and amalgamations, the Board has noted that rate considerations are best dealt with in a rates proceeding.[1] The Board's July 23, 2007 report, *Rate-Making Associated with Distributor Consolidation*, sets out Board policy on several issues relating to consolidation transactions, including whether rate recovery of transaction costs associated with a consolidation of distributors should be allowed, and whether efficiency savings resulting from a consolidation accrue to the shareholder, ratepayers, or both. The Board report notes that distributors applying for Board approval of a consolidation transaction may propose to defer the rate rebasing of the consolidated entity for up to five years from the date of closing. This policy is intended to allow distributors to retain cost savings resulting from the consolidation to offset transaction costs.

NFHI and Pen West apparently do not intend to defer rebasing of the rates of the amalgamated company. They have indicated the amalgamated company may ask the Board to reset its rates for 2009. The amount of transactions costs, if any, the amalgamated entity may seek to recover from ratepayers in any future rates application is not known at this time. NFHI and Pen West should not expect that the Board will

[1] See, for example, the April 2, 2007 Decision and Order in EB-2006-0186 on the amalgamation of Greater Sudbury Hydro Inc. and West Nipissing Energy Services Ltd.

approve any recovery of transactions costs in future rates unless it is clear that ratepayers will benefit from future cost savings of at least an equal amount.

Based on the evidence in this proceeding, the Board concludes that the proposed amalgamation will not have an adverse affect in terms of the factors identified in the Board's objectives in section 1 of the Act. Accordingly, the Board finds that the proposed amalgamation passes the "no harm" test.

Given that the Board is granting leave to NFHI and Pen West to amalgamate, the Board finds that it is in the public interest to cancel NFHI's electricity distribution licence; cancel Pen West's electricity distribution licence; and issue a new electricity distribution licence to Niagara Peninsula Energy Inc. when the transaction closes.

Net Metering Thresholds

The current net metering thresholds for NFHI and Pen West are 1,642 kW and 688 kW respectively. NFHI and Pen West have submitted that there are no special circumstances that warrant using a different methodology to determine the net metering threshold. The Board accepts that there are no special circumstances present and will therefore add together the net metering thresholds for NFHI and Pen West to determine the net metering threshold for the amalgamated company.

Response to the Letter of Comment

The author of a letter of comment noted that Pen West had not indicated "if all three of the municipalities of Lincoln, Pelham, and West Lincoln have agreed to the amalgamation".

As stated in the original evidence filed by NFHI and Pen West, three of the four municipalities had approved of the proposed transaction. The Township of West Lincoln had not approved of the proposed amalgamation. However, NFHI and Pen West stated that the Shareholder Agreement for Peninsula West Power Inc. provides that the shareholders may proceed with a merger if it is approved by at least 2/3 of the votes cast at a duly constituted meeting of the shareholders. NFHI and Pen West stated that the shares of the Town of Lincoln and the Town of Pelham represent 76 percent of the shares of Peninsula West Power Inc. and both of these shareholders

voted in favour of the merger. The application included a resolution of Peninsula West Power Inc. which approved of the merger.

The Board accepts this evidence. Furthermore, the Board notes that the Township of West Lincoln has not taken any position nor participated in this proceeding.

The author of the letter also questioned how the proposed percentage allocation of the shares of the amalgamated company was determined. The application filed with the Board indicates that the parties negotiated the allocation using a valuation report prepared by a third party financial advisor. A copy of that report was included with the application and the evidence provided by NFHI and Pen West.

Lastly, the letter of comment questioned why the amalgamation application does not reference the rate application for Pen West. The Board notes that the rate application is a separate and distinct proceeding from the amalgamation proceeding and that this amalgamation proceeding will not in and of itself change any rates for Pen West customers at this time. Any future rate applications will be determined in a separate proceeding.

THE BOARD ORDERS THAT:

1. NHFI and Pen West are granted leave to amalgamate.

2. The Board's leave to amalgamate shall expire 18 months from the date of this Decision and Order. If the transaction has not been completed by that date, a new application for leave to amalgamate will be required in order for the transaction to proceed.

3. NFHI, Pen West, or Niagara Peninsula Energy Inc. shall promptly notify the Board of the completion of the transaction.

4. Once the notice referred to in number 3 above has been provided to the Board, the Board will issue an electricity distribution licence to Niagara Peninsula Energy Inc. for the service area formerly served by NFHI and Pen West.

5. Once the notice referred to in number 3 above has been provided to the Board, the Board will cancel licences ED-2002-0551 and ED-2002-0555 for NFHI and Pen West respectively.

6. Once the notice referred to in number 3 above has been provided to the Board, the net metering threshold for the amalgamated company (i.e., Niagara Peninsula Energy Inc.) will be 2,330 kW.

ISSUED at Toronto, December 28, 2007.

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

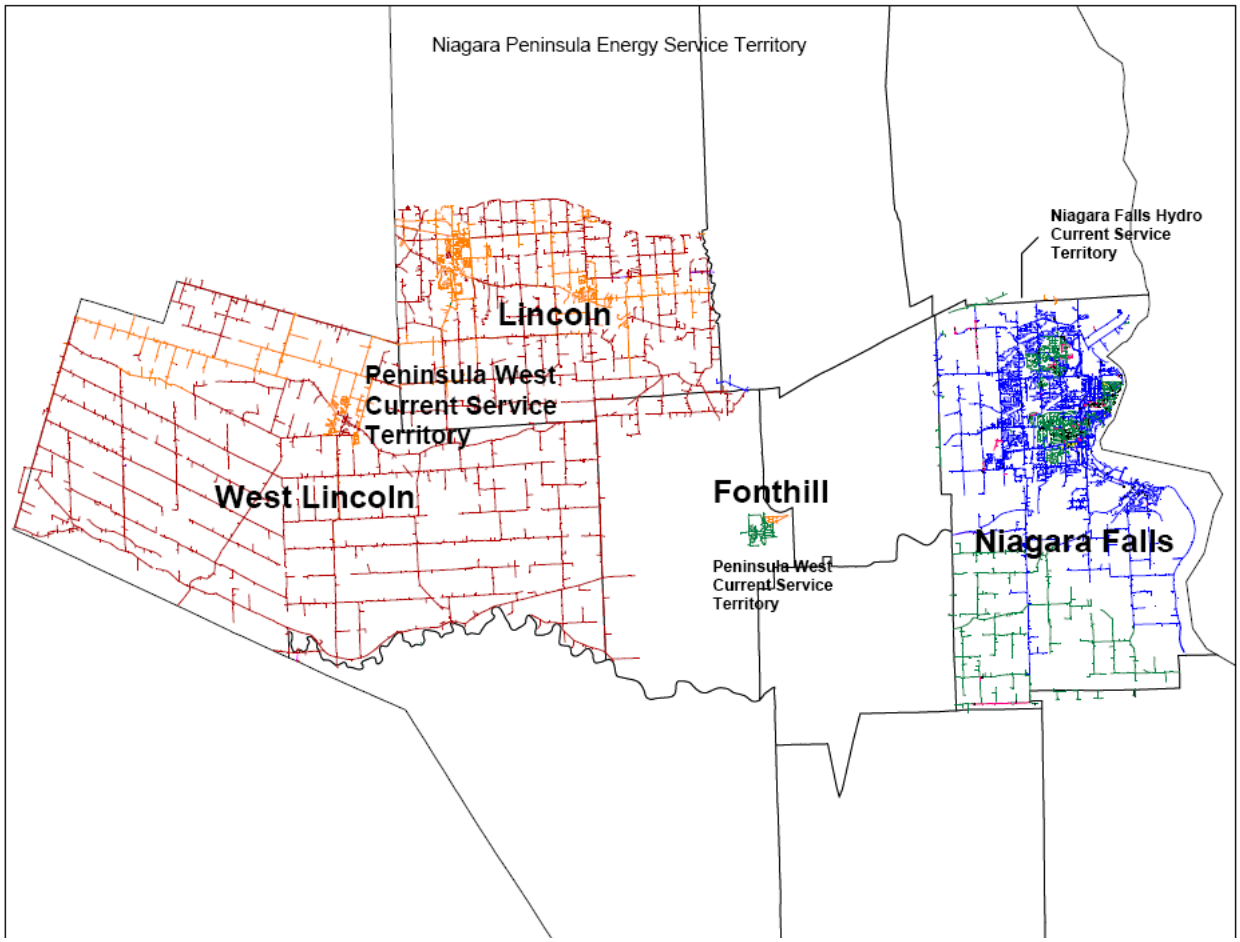
APPENDICES

Appendix A Map of Amalgamated Service Area

Appendix B Corporate Structure After Amalgamation

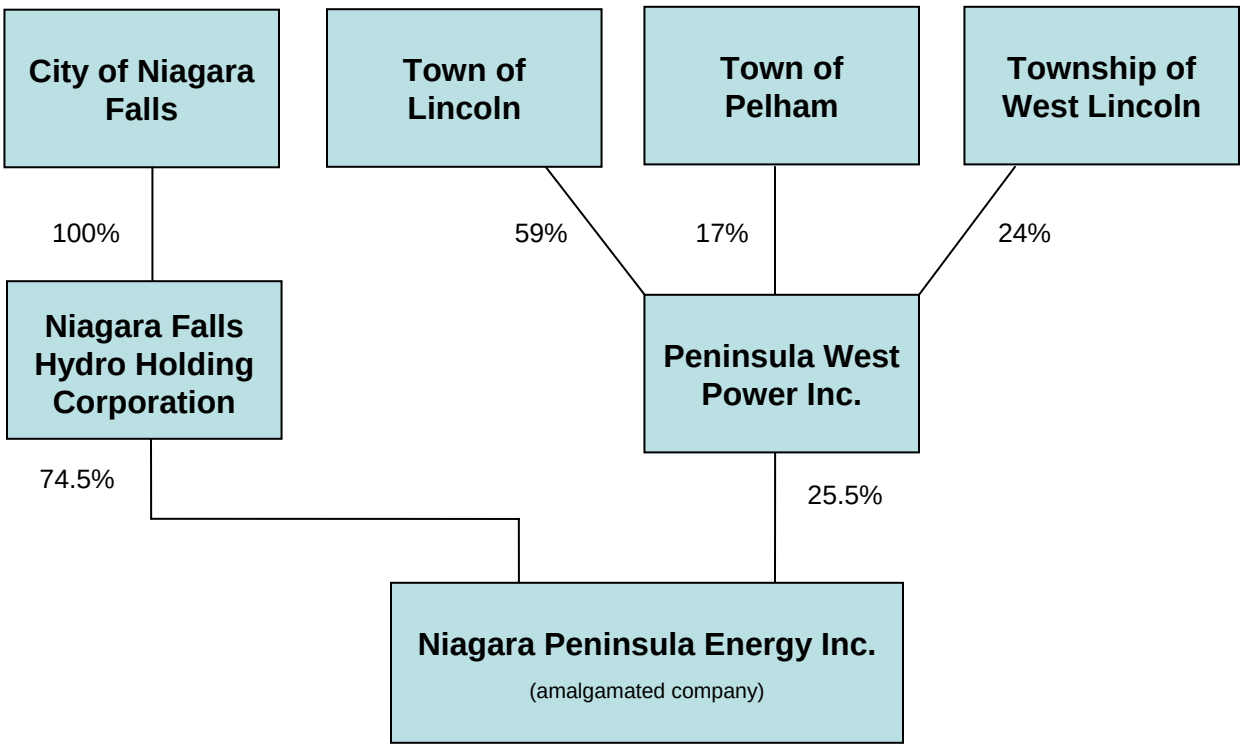
APPENDIX A

NFHI and Pen West Service Areas



APPENDIX B

Post-Amalgamation Corporate Structure



Report on Update of Valuation of
Niagara Falls Hydro Inc. and Peninsula West Utilities Ltd.

Prepared by
Henley International Inc.

May 9, 2007

May 9, 2007

Report on Update of Valuation of
Niagara Falls Hydro Inc. and Peninsula West Utilities Ltd.

Background

Henley International Inc. (Henley) was retained by Niagara Falls Hydro and Pen West Power Inc. to update valuations of Niagara Falls Hydro Inc. (NFH) and Pen West Utilities Ltd. (PWU) to take into consideration changes in the regulatory environment, changes in underlying assumptions and the results of 2006 operations. It was understood that these valuations would be used as input to the intended goal of amalgamating the two utilities.

The procedure Henley used to complete this task was unchanged from that used in preparing the 2006 valuation, which was accepted by each of the companies. Essentially this procedure involved the preparation of financial projections for each of the utilities in order to determine expected cash flows from each company on a stand alone, business-as-usual basis. The discounted value of these cash flows, using the companies' cost of capital as the discount rate, established the values of the companies.

Since the preparation of financial projections for each company involves the use of numerous assumptions, those which Henley intended to use were described and provided to the companies for their review. Critical among these assumptions is the expected regulatory environment. While the assumptions are discussed in some detail in the Appendix it is useful to state at the outset three important developments in the regulatory framework:

i) Cost of capital – the OEB undertook a detailed consultation on the subject of the cost of capital (See Report of the Board on Cost of Capital and 2nd Generation Incentive Regulation for Ontario's Electricity Distributors). Among the important outcomes of this process were that the Board decided to retain its formula-based determination of the return on equity and secondly that it changed its approach to capital structure, concluding that utilities of all sizes should maintain a 60/40 debt equity ratio. The latter will mean that both companies will have to alter their capital structure over the transition period set out by the OEB and, significantly for valuation purposes, the cost of capital for each company has been reduced.

ii) 2nd Generation Incentive Regulation Mechanism (IRM) – for the years prior to rebasing when a full cost of service study will be required rates will be set using the 2nd Generation IRM, which is essentially an inflation minus productivity gain adjustment.

iii) Rebasing – utilities will be categorized into three groups for the purpose of rebasing using a cost of service study. The rate applications of these groups will be heard in 2008, 2009 and 2010. It is assumed for valuation purposes that both companies will be in the group with rebasing in 2010.

Valuation Results

Since 2006 LDCs have levied a rate rider in anticipation of expenditures required to introduce smart metering. While the implementation of smart metering is the stated intention of the government, it is not at this point certain. Consequently, two cases were undertaken to deal with smart metering. In the Base Case it is assumed that the decision to go ahead with smart metering is reversed. In 2010 the funds collected to date with associated interest are returned to consumers in the form of rate relief. In the Smart Meter case the program is implemented in 2010. Expenditures on the program up to and including 2010 are capitalized and added to the rate base in that year. Capital expenditures and OM&A are adjusted in subsequent years to account for smart meter program requirements. The data for each case were provided by the companies.

The table below provides the valuation results and compares them to the 2006 results. The rate base, which is the foundation for the return on capital, is deemed by the OEB to include two components, one related to fixed assets and one related to working capital. The former is based on the net book value of fixed assets, which changes slowly. The latter is based on a deemed level set by the OEB. In the setting of rates and the return on equity it is presumed that LDCs will meet this required level of working capital. A purchaser of either company would require that the company met the deemed working capital requirement. However, actual working capital can vary significantly. Consequently, a valuation adjustment is made to account for deviations between the actual and deemed working capital levels. Since there have been significant swings in these adjustments they are shown in the table.

Summary of Valuation Results

	$ Millions		% Share of Total	
	NFH	**PWU**	**NFH**	**PWU**
2006 Total assets	90.2	33.6	72.9	27.1
Rate Base (2006 EDR)	65.3	24.1	73.0	27.0
06 Base Case				
PV Cash Flow	80.1	30.3	72.6	27.4
WC Adj.	-0.9	-1.8		
Net Value	79.2	28.5	73.5	26.5
07 Base Case				
PV Cash Flow	87.7	32.3	73.1	26.9
WC Adj.	3.0	-1.2		
Net Value	90.7	31.1	74.5	25.5
07 Smart Meter Case				
PV Cash Flow	88.8	32.2	73.4	26.6
WC Adj.	3.0	-1.2		
Net Value	91.8	31.0	74.8	25.2

Looking first at the Present Value of Cash Flow valuation the increase in the NFH value from the 06 valuation to the present one is almost entirely due to the reduction in the cost of capital and the resultant lowering of the discount rate. Using the discount rate from last year the PV Cash Flow value would be $81.6 million, just $1.5 million higher than last year. Similarly, the PV Cash Flow for PWU would be slightly lower than last year. The discount is the weighted average after-tax cost of capital. For NFH the discount rate is reduced from 6.76% to 6.31% (or 7%) by the increase in the debt ratio from 50% to 60%. For PWU the discount rate is reduced from 6.84% to 6.42% (or by 6%) by the change in capital structure. However, the after tax interest rate for PWU is also lower, from 4.68% to 3.83% which further lowers the discount rate to 5.9%.

There is a significant change in the working capital adjustment between the two years. NFH's actual working capital increased by $3.4 million in 2006, about $2 million of this in cash. PWU's financial statements for 2006 show a reduction in working capital of $0.3 million in 2006. However, an adjustment is made for a payment received from the OEFC in early 2007 in the amount of $1.6 million.

Looking at the shares of total value in the base cases, on a PV Cash Flow basis NFH's share increases by about 0.5%. However, after allowance for the working capital adjustments the increase in NFH's share is 1.0%.

The implementation of the smart meter program has little impact on the valuations of the two companies. NFH's value increases slightly and PWU remains essentially the same.

Conclusions

The updated valuations result in increased values for each of the companies on a PV Cash Flow basis. This is largely due to the reduction in the cost of capital resulting from the OEB's decision regarding increased use of debt financing. After adjustments for working capital the value of NFH is estimated at $90.7 million and PWU at $31.1 million. On a share basis NFH accounts for 74.5% of the total value and PWU 25.5%.

Appendix

Overview of Valuation Methodology

The valuation of the utilities is based on projected cash flow to the owners of the capital provided. The regulatory environment plays a critical role in the valuation, affecting most aspects of utility operation, particularly revenues. Revenues are forecast for each customer class based upon the energy sales forecasts of each utility and projected distribution rates.

From a valuation perspective the focus is on cash flows rather than the accounting treatment of transactions. Regulatory assets are treated as revenues. These affect revenues projected for 2007.

Operating costs and investment spending are affected by growth in each utility's customer base and energy sales as well as inflation and productivity improvements. The cost of the energy commodity is treated as a pass through from the IESO market to the final consumer. Its effect on the utility is limited to its impact on working capital and the rate base in each rebasing year.

Integrated pro forma income and cash flow statements and balance sheets are forecast for the period 2007 – 2033. The financing of investment activity assumes that the utilities adhere to OEB guidelines on capital structure. This requires first a transition to the 60/40 debt structure stipulated in the OEB Report on Cost of Capital and 2nd Generation IRM. Dividend policy is consistent with cash flow and investment needs. Cash not needed for investment or to meet the OEB's deemed working capital requirements is distributed.

Summary of Assumptions

Energy Sales Growth
Assumed growth in energy sales is the same for both companies:
2.5% in 2007-2015; 2.0% in 2016-2025 and 1.5% in 2026-2033.

Inflation and Productivity
Inflation is assumed to average 2.0% over the forecast period. Average productivity improvement is assumed to be 1%. Commodity prices increase at an average rate of 1.5 %/yr.

Operating Costs

In the 2006 valuation OM&A costs, depreciation and interest costs for the first five years were based on projections provided by the companies. These internal projections were not available for the current estimates. OM&A projections are based on sales growth inflation and productivity improvements. Depreciation is based on the relationship between depreciation and the net book value of fixed assets in recent years. Interest expenses are based on the assumed interest rate and the long term debt outstanding.

Extraordinary costs
In 2007 extraordinary costs consist of the remaining CDM obligations resulting from the 3rd phase of MARR allowed in 2005. In 2007 in the Base Case it consists of the rate relief for the smart meter revenues collected since 2006 plus interest.

Regulatory Assets
Regulatory asset rate riders provide additional revenues in 2007. The rate riders used and the associated revenues are based on the approved regulatory asset filing with the OEB.

Distribution rates
Distribution service rates for 2007 are based on the companies' rate applications. In 2008 and 2009 rates are based on the implementation of 2nd Generation IRM. The companies are assumed to be part of the group that rebases in 2010. Thereafter rates are rebased every 5 years.

Investment
Capital expenditures are increased at the rate of the growth in energy sales. As a result investment is somewhat greater than depreciation, resulting in a gradual increase in the net book value of fixed assets.

Borrowing
During the period 2007 to 2010 borrowing is primarily designed to adjust the capital structure to level required by the OEB. The adjustment is greater for PWU than NFH since it starts from a debt ratio below the deemed level of 50%. In future years the financing of capital spending is designed to meet the new deemed debt level.

Dividends
Cash flow not needed for investment or to meet OEB deemed working capital requirement is distributed.

Cost of capital
The cost of debt is based on approved levels by the OEB. The cost of equity is assumed to be 9%. The increase in the deemed debt ratio from 50% to 60% has the effect of lowering the cost of capital by 7 – 8%.

Initial Values and Forecast Period
The initial values are derived from the financial statements for 2006. The forecast period is 2007 – 2033. Valuation as at the end of 2006.

NIAGARA FALLS HYDRO

September 24, 2007

Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto, ON M4P 1E4

Attention: Board Secretary

Re: Application for Leave for Niagara Falls Hydro Inc. to Amalgamate with Peninsula West Utilities Limited, Board File Number EB-2007-0749

Dear Sir or Madam:

Niagara Falls Hydro Inc and Peninsula West Utilities Limited would like to provide response to the letter received September 12, 2007.

At this time, the parties of the transaction, Niagara Falls Hydro Inc. (NFHI) (the Applicant), and Peninsula West Utilities Limited (Pen West) would like to provide additional information to the following requests:

1. section 1.4.4, provide proforma financial statements of each of the parties reflecting completion of the proposed transaction for the first full year following the year of the transaction;
2. section 2.4.1, provide proposed transaction approval from the Township of West Lincoln; and
3. section 2.2, expand by including estimated total dollar value of cost savings/cost benefits.

Section 1.4.4

Please find the attached Projected Statement of Operations, as well as, the Balance Sheet outlining the details of each of the parties – Projected NF representing Niagara Falls Hydro and Projected Pen West representing Peninsula West Utilities. Within the elaborated statements, we have provided the items individually, as well as, a consolidated total. Please note the Net Savings/Costs found in the Projected Statement of Operations.

7447 Pin Oak Drive, P.O. Box 120, Niagara Falls, Ontario L2E 6S9 Telephone: (905) 356-2681 Fax: (905) 356-0118
E Mail: info@niagarafallshydro.on.ca Web: www.niagarafallshydro.on.ca



Section 2.4.1

The parties to the proposed transaction have not received the approval from the Township of West Lincoln.

In May 2007, the proposed merger documents went to all of our Shareholders for their approval. At that time, the City of Niagara Falls, the Town of Lincoln, and the Town of Pelham voted in favour of the merger. Unfortunately, the Township of West Lincoln did not vote on the approval of the merger.

Within the existing Shareholder Agreement for Peninsula West Utilities, it is deemed, that the shareholder can proceed with a merger as long as 66 2/3% of the votes of the shareholders approve the merger. The Town of Lincoln and the Town of Pelham represents 66 2/3% of the votes; therefore, the holding company of Peninsula West Utilities approved the decision to proceed with the merger. Please see the attached resolution of the sole shareholder, as well as, copies of the Shareholder Agreement outlining the required votes for approval of a substantial transaction such as a merger.

We will continue to provide update to West Lincoln and to communicate the benefits of the merger, with the foremost being a new service centre being located in their community, as well as, equal representation on the Board of Directors for the new amalgamated entity. West Lincoln is still reviewing the matter as the Committee of the Whole continues to request information. Upon receipt of any decision, we will make that information available to the Ontario Energy Board.

Section 2.2

Please find the estimated total dollar value of cost savings/cost benefits.

Costs		Savings	
Wage parity with payroll burden	$163,976	Back of house operations, consulting, legal, rate filing, administration facility, specialized resources	$561, 900
Benefit burden	$47,566		
Non-cash other employee benefit wage parity (one time)	$1,140,052		
Total cash costs	$211, 542	Total savings	$561, 900
Net Savings			$350,358 annually

7447 Pin Oak Drive, P.O. Box 120, Niagara Falls, Ontario L2E 6S9 Telephone: (905) 356-2681 Fax: (905) 356-0118
E Mail: info@niagarafallshydro.on.ca Web: www.niagarafallshydro.on.ca

In addition to the quantitative benefits of the proposed transaction in reference to the net savings of $350, 358 annually, the parties of the proposed transaction would like the Board to consider the evidence provided which supports that the transaction does have a positive/neutral effect on the attainment of statutory objectives being: 1.) To protect the interests of consumers with respect to prices and adequacy, reliability and quality of electricity service; 2.) To promote economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity and to facilitate the maintenance of a financially viable electricity industry ("no harm's test".)

In consideration of the "no harm" test, the parties anticipate that the proposed transaction expects to result in the following benefits for customers and municipal shareholders with respect to prices and the adequacy, reliability and quality of electricity service:

- Elimination of duplication (e.g. billing systems) and economies of scale will reduce current operational expenses and assist in avoiding future costs, which will help mitigate future rate increases in local distribution rates. Local distribution rates represent approximately 20 percent of a customer's total electricity bill.

- It will improve the utilization of existing resources such as employees, technologies and facilities, and will improve distribution system planning.

- By combining resources, employee expertise and best practices, the parties expect that there will be improved reliability of the local electricity distribution system for both urban and rural customers, enhanced customer service, and a greater emergency response capability.

- The larger customer base combined with reduced operational costs through economies of scale results in a greater financial ability to invest in the maintenance and upgrading of the local electricity distribution infrastructure (i.e. poles, wires, transformers).

- An initial study of a harmonization of the current local distribution rates in the two service areas shows there would be minimal impact on customer rates and would result in a consistent, fair and competitive rate structure for all customers, along with improved services.

- The proposed transaction will maintain local presence and control over the management of electricity services and distribution rates increasing the consumer confidence in the delivery of reliable quality electricity service.

- Customers of Peninsula West will benefit from a larger, centrally located service centre in West Lincoln. This will provide for improved customer service and response times during emergencies.

NIAGARA FALLS HYDRO

The Applicant understands that the Board may require information that is additional or supplementary to the information provided. Upon Board request, we will work diligently in providing the necessary information.

If you should have any questions or require additional information, please contact our offices.

Sincerely,

Ms. Margaret Battista
Director of Customer Service and Special Projects (Senior Regulatory Officer)

. cc Brian Wilkie, President, Niagara Falls Hydro Inc.
. cc Brian Walker, President, Peninsula West Utilities Limited
. cc Karen Bubish, Chief Operating Officer, Peninsula West Utilities Limited

MB/mb

NIAGARA PENNISULA ENERGY INC.

PROJECTED STATEMENT OF OPERATIONS
for the years ended December 31, 2008

	Projected NF	Projected PenWest	Total	Net (Savings)/Costs One Time Non-Cash	Net (Savings)/Costs Annual	Merged Total
	2008	2008	2008	2008	2008	2008
	$	$	$	$	$	$
Service Revenue						
Standard supply charge	53,197,855	28,159,491	81,357,347		0	81,357,347
Wholesale, network and connection charges	14,588,825	0	14,588,825		0	14,588,825
Service charge	9,464,219	9,299,850	18,764,069		0	18,764,069
Distribution volumetric charge	8,542,483	0	8,542,483		0	8,542,483
Standard supply service admin charge	84,000	0	84,000		0	84,000
Retailer revenue	65,000	0	65,000		0	65,000
Other income	18,000	0	18,000		0	18,000
	85,960,382	37,459,341	123,419,724	0	0	123,419,724
Cost of Power						
Power Purchased	67,786,680	28,159,491	95,946,172	0	0	95,946,172
Gross Profit	18,173,702	9,299,850	27,473,552	0	0	27,473,552
Other Revenue	1,598,000	285,000	1,883,000	0	0	1,883,000
	19,771,702	9,584,850	29,356,552	0	0	29,356,552
Expenses						
Operation and maintenance						
Distribution	4,115,275	2,626,500	6,741,775		49,762	6,791,537
Utilization	164,800	0	164,800		(25,000)	139,800
Administration and general	4,462,023	3,154,280	7,616,303	1,140,052	(188,433)	8,567,923
Billing and collecting	2,939,260	0	2,939,260		(186,687)	2,752,573
Depreciation	4,427,250	2,521,225	6,948,475		0	6,948,475
Extraordinary deductions	0	0	0		0	0
	16,108,608	8,302,005	24,410,613	1,140,052	(350,357)	25,200,308
Net Income before PILS	3,663,094	1,282,845	4,945,939	(1,140,052)	350,357	4,156,244
Payments in Lieu of Income Taxes	1,465,238	513,138	1,978,376	(456,021)	140,143	1,662,498
Net Income for the Year	2,197,856	769,707	2,967,563	(684,031)	210,214	2,493,746

NIAGARA PENINSULA ENERGY INC.

BALANCE SHEET
Projected December 31, 2008

Assets	Projected NF 2008 $	Projected PenWest 2008 $	Total 2008 $
Fixed Assets	62,317,767	22,869,296	85,187,063
Current Assets	31,493,685	10,459,508	41,953,193
Regulatory Assets	(453,051)	1,862,307	1,409,256
Investment	0	0	0
Future payment in lieu of Taxes	0	0	0
	93,358,401	**35,191,111**	**128,549,512**

Liabilities and Shareholder's Equity

Long-Term Debt	29,937,132	10,875,000	40,812,132
Current Liabilities	17,039,137	7,578,023	24,617,160
Other Liabilities	5,550,052	357,454	5,907,506
Contingent Liabilities			
Shareholder's Equity			
Share capital	18,899,784	11,146,098	30,045,882
Paid-up capital	6,705,305	0	6,705,305
Retained Earnings	15,226,990	5,234,536	20,461,526
	40,832,079	16,380,634	57,212,713
	93,358,401	**35,191,111**	**128,549,512**

RESOLUTION OF THE SOLE SHAREHOLDER

OF

PENINSULA WEST UTILITIES LIMITED

WHEREAS Peninsula West Power Inc. is the owner of all of the shares of Peninsula West Utilities Limited;

AND WHEREAS Peninsula West Utilities Limited intends to amalgamate with Niagara Falls Hydro Inc.;

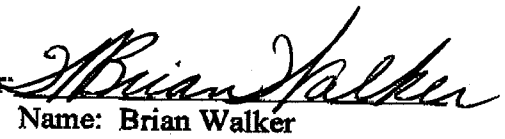
BE IT RESOLVED THAT:

1. The amalgamation of Peninsula West Utilities Limited with Niagara Falls Hydro Inc. (the "Amalgamation") is hereby approved;

2. Any officer or director of the Corporation is hereby authorized and directed to do and perform all acts and things, including, without limitation, the execution of documents, necessary or desirable to give effect to the foregoing resolution.

THE FOREGOING RESOLUTION is hereby consented to by the sole shareholder of the Corporation entitled to vote thereon at a meeting of shareholders, as evidenced by its signature hereto in accordance with the provisions of section 104(1) of the *Business Corporations Act* (Ontario), this 19th day of June, 2007.

Peninsula West Power Inc.

Per: 

Name: Brian Walker
Office: President

(b) **Human Resources Committee.** The Board shall appoint members to the Human Resources Committee. The Committee Chair shall be a member of the Board. The duties of the Committee will include establishing and altering any salary, bonus or other compensation paid or payable to employees, establishing guidelines for the approval of any collective agreement plus reporting and making recommendations to the Board.

(c) **General Provisions Relating to Board Committees.** The quorum for meetings of Board Committees shall be a majority of the members from time to time of each Board Committee. Decisions of all Board Committees shall be made by a majority of the members of the respective Board Committee. Except as otherwise provided in this Section 3.3 and subject to the supervision of the Board, each Board Committee shall establish its own rules of procedure for operating in an efficient and expeditious manner.

3.4 Shareholders Meetings

A quorum for a meeting of Shareholders shall be at least two (2) individuals representing, by proxy or as otherwise permitted by the Act, both (i) a majority in number of the Shareholders; and (ii) not less than 66 2/3% of the Shares then issued and outstanding. A meeting shall be adjourned for lack of quorum and notice of the adjourned meeting shall be sent to all Shareholders rescheduling the meeting to a date at least seven (7) days following the original meeting date. A quorum for the adjourned meeting shall be at least two (2) individuals representing by proxy or as otherwise permitted by the Act a Shareholder or Shareholders holding at least 66 2/3% of the Shares then issued and outstanding.

The chair of any meeting of the Shareholders of HoldCo shall be the Chair or, in the absence of the Chair, such individual as the Shareholders represented at such meeting shall determine.

Subject to the Act, the Board shall provide the Shareholders with reasonable notice of and detail concerning a Shareholders' meeting in order for the Shareholders to reasonably assess the importance of and prepare for, the Shareholders' meeting.

3.5 Regular Shareholders Meetings

Unless the Shareholders otherwise determine, the Shareholders shall meet at least annually at the registered office of HoldCo or at such other times or places as the Shareholders may determine.

3.6 Decisions of the Shareholders

(a) **Decisions of Shareholders.** All decisions of the Shareholders shall require, and shall be deemed to be effective upon: (i) the approval of at least two thirds of the votes cast at a duly constituted meeting of Shareholders; or (ii) the execution of a resolution in writing signed by all the Shareholders entitled to vote on that resolution at a meeting of Shareholders.

3.7 Shareholder Representative

At least 30 days prior to the commencement of each Fiscal Year, each Initial Shareholder shall designate the head of its Council (or an alternate duly appointed by Council) as the legal representative of that Initial Shareholder (the "Shareholder Representative") for purposes of providing any consent or approval required by this Agreement or by the Act. The Shareholder Representative shall be the shareholder representative for purposes of this Agreement and of the Act unless the Initial Shareholder determines otherwise. An Initial Shareholder shall designate its Shareholder Representative (by proxy

duly completed in accordance with the Act) as its representative to attend and vote at any meeting of Shareholders.

3.8 Officers

(a) The officers of HoldCo shall include a Secretary-Treasurer and such other officers as the Board may determine from time to time. The Board shall appoint the officers of HoldCo from time to time.

(b) For greater certainty, the parties recognize that in carrying on the ordinary course of Business, it is not practicable for the Board to be involved in the day to day affairs of HoldCo. The Board will delegate responsibilities to the officers, who will report to the Board and the Board Committees from time to time as required.

3.9 Matters Requiring Shareholder Approval

The Shareholders and the Corporations agree that, without Shareholder approval given in accordance with Section 3.6, each of Corporations shall not:

(a) amend its articles (within the meaning of the Act) or enact, revoke, or amend any by-law the Corporations;

(b) issue, or enter into any agreement to issue, any shares of the Corporations of any class, or any securities convertible into any shares of any class, or grant any option or other right to purchase any such shares or securities convertible into such shares;

(c) redeem, purchase for cancellation or otherwise retire any of its outstanding shares;

(d) sell or otherwise dispose of, by conveyance, transfer, lease, sale and leaseback, merger or other reorganization or transaction, mortgage, pledge, charge or otherwise grant a security interest in, all or substantially all of its assets or undertaking;

(e) enter into any acquisition, joint venture, partnership, strategic alliance or other venture which would require an investment of greater than ten (10%) percent of the net book value of the assets of WiresCo as set out in the most recent audited financial statements of WiresCo;

(f) grant security for or guarantee, or otherwise become liable for any debt, liability or obligation of any Person other than a subsidiary corporation;

(g) take or institute the proceedings for any winding up, reorganization or dissolution;

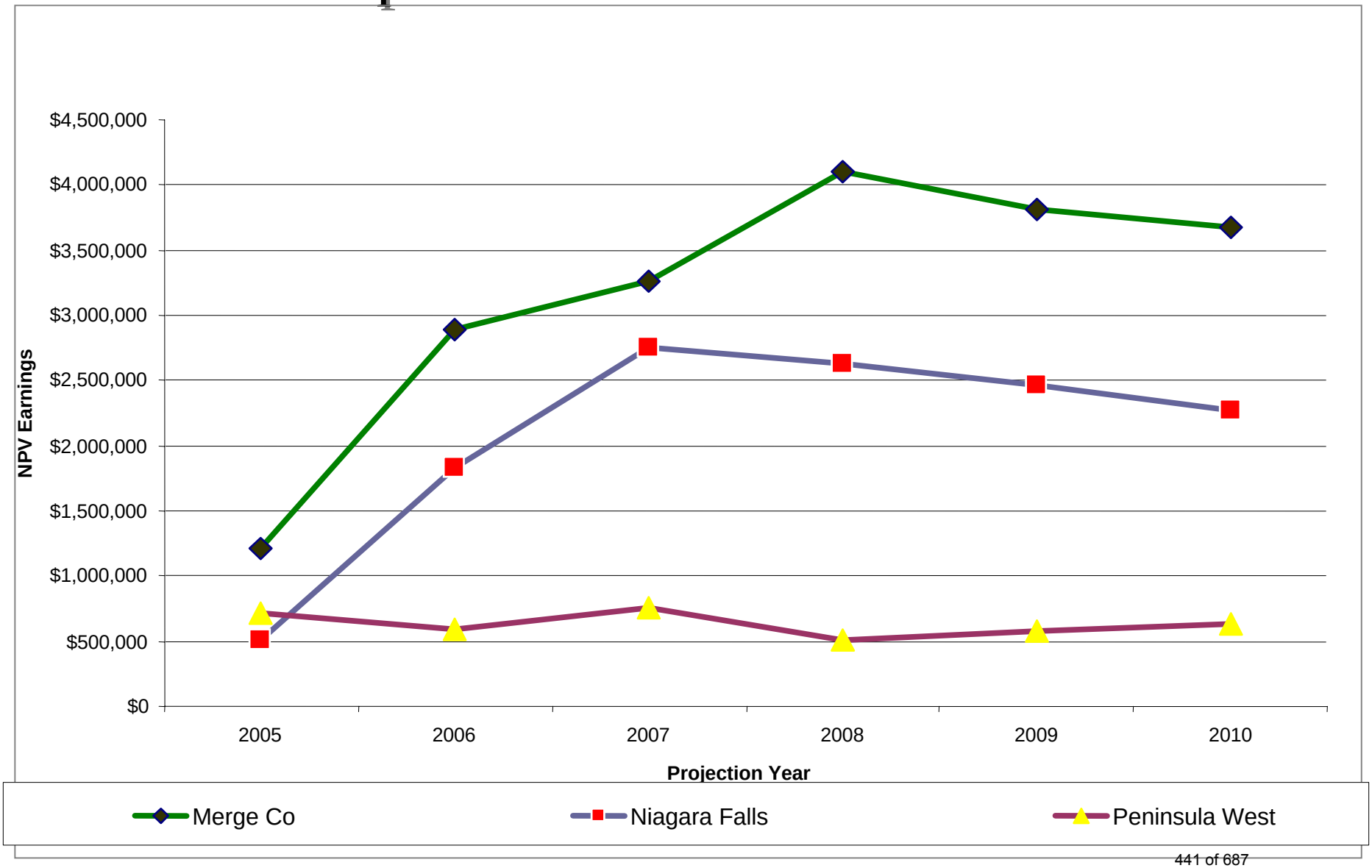
(h) enter into any amalgamation, arrangement or consolidation;

(i) apply to continue as a corporation under the laws of another jurisdiction;

(j) borrow money in excess of $2 Million, except for borrowing requirements included in the current business plan;

(k) make any capital expenditure in an amount exceeding $2 Million, except expenditures included in the current business plan;

Increase Corporation Value: Financial Benefits



Transaction Structure

Key Aspects of Merger: Ratepayer Benefits

- **Maintain local presence and control over the management of electricity services and rates**
- **Improve electricity distribution services to local customers**
- **Improve the utilization of existing resources: people, technology**
- **Explore business options that achieve new economies of scale and avoid duplication of services and costs to the customer**
- **Increase corporation value to maximize shareholder wealth**

Appendix C
Asset Management Plan

Niagara Peninsula Energy Incorporated

Asset Management Plan
2011 – 2015



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1 Executive Summary

1.1 Objective of AMP

Niagara Peninsula Energy Inc.'s (NPEI) Asset Management Plan provides a high level overview of the corporation as well as a summary of the corporate objectives, strategies, and practices that go into developing a business plan.

The resultant business plan is summarized in this document for the period 2011-2015 with more details, such as major projects and programs, included for 2011, by dividing expenditures in the major investment buckets under capital, O&M, Billing and Collecting and General and Administrative categories.

The Asset Management Plan could and should be used as a means of sharing information about NPEI and the rational for investments it makes with customers, shareholders, regulators and the general public.

1.2 AMP Components

The Asset Management Plan includes a number of sections. The following is a brief description of the contents for each section:

About NPEI – Section 2

This section provides a description of NPEI's company's overview, geographic location and demand and energy consumption (both historical and forecasted).

Corporate Information – Section 3

This section provides high level corporate information that governs decision making processes and includes vision, mission statement, and corporate values.

System Description and Reliability Performance – Section 4

This section gives a description of the NPEI's distribution system and provides information on all supply points, SCADA, major asset categories and reliability performance, including historical values for SAIFI, SAIDI and CAIDI.

Major External Challenges – Section 5

This section lists external challenges that, in order to be addressed properly, require NPEI to make significant investments, mostly capital in nature. These external challenges include Smart Grid development, DG connections, new loads, both residential and commercial, and municipal infrastructure improvement projects, such as a road widening.

Internal Initiatives – Section 6

This section describes major internal initiatives aimed at improving the performance of NPEI's distribution system. These initiatives include a number of programs, such as replacement of high voltage switching kiosks and submersible transformers, inspection and replacement of poles and pad mounted equipment, and vegetation management.

Business Practices –Section 7

This section describes NPEI's business practices and approach specifically regarding replacement and maintenance of existing distribution assets.

Asset Condition Assessment – Section 8

This section presents results and recommendations from the Asset Condition Assessment study for the distribution assets performed by an external consultant (Kinectrics Inc).

2011 Business Plan – Section 9

This section presents 2011 Business Plan divided into 6 major buckets: Sustainment Capital, Development Capital, Other Capital, Operations & Maintenance, Billing and Collecting and General and Administration. Major programs and projects are also identified within each investment bucket.

2012-2015 Business Plan – Section 10

This section presents the 2012-2015 Business Plans for each of the years in the range using the same buckets as for 2011 Business Plan but without identifying major projects and programs.

2 About NPEI

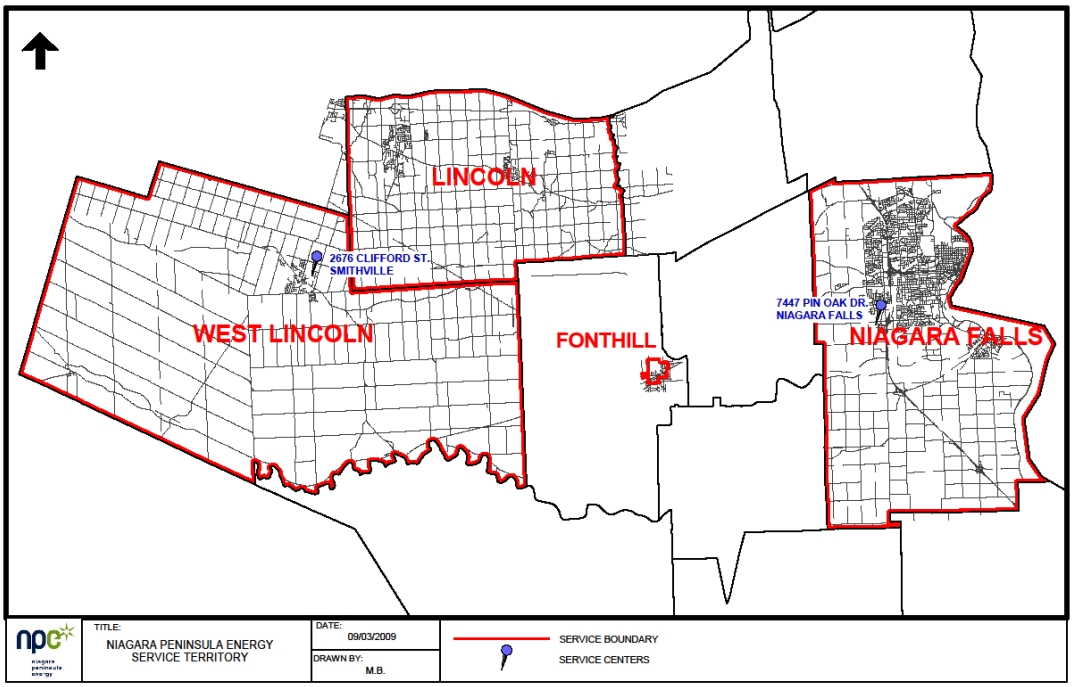
2.1 Company Overview

Niagara Peninsula Energy Inc. (NPEI) was established in 2008 as a result of the amalgamation of Niagara Falls Hydro Incorporated and Peninsula West Utilities Limited. NPEI is a medium sized utility in the Province of Ontario and is responsible for providing all regulated electricity distribution services to over 50,000 residential and business customers in the City of Niagara Falls, the Town of Lincoln, the Township of West Lincoln and the Town of Pelham. Niagara Peninsula Energy has a service area of 827 sq. km.

The table below shows NPEI's Provincial ranking in 3 major categories: number of customers, Net Book Value of Assets and geographic territory.

	Area (sq. km.)	Number of Customers	NBV ($M)
NPEI	827	> 50,000	101
Ontario Rank	6	14	9

2.2 Geographic Map



NPEI's neighboring utilities are Fortis, Welland Hydro, Niagara-on-the Lake Hydro, Hydro One, Horizon Utilities, Haldimand County Hydro and Grimsby Power.

2.3 Customer Base

Niagara Peninsula Energy Inc. (NPEI) services approximately 45,616 residential and 5,311 commercial customers. Customers in urban portions of the service territory are as follows:

Area	Size	Customers
Niagara Falls Urban	60.8 sq. km.	31,850
Beamsville	10.3 sq. km.	4,153
Vineland	5.9 sq. km.	1,714
Fonthill	1.8 sq. km.	1,161

The majority of NPEI's service territory is rural. NPEI has 748.2 sq. km. of rural territory servicing approximately 12,049 customers.

2.4 Demand and Energy

2.4.1 Energy Usage

The following table summarizes NPEI's energy usage in 2009 and 2010 to present. The remaining columns for 2012 to 2015 are the projected demand forecast for NPEI:

	Energy (gWh)						
Month	2009	2010	2011	2012	2013	2014	2015
January	118	112	117	117	117	118	118
February	98	99	103	103	103	103	104
March	102	100	103	104	104	104	105
April	92	89	92	93	92	93	93
May	91	98	101	102	102	102	103
June	98	107	111	111	111	111	112
July	106	130	135	135	135	136	136
August	118	125	130	130	130	131	131
September	97	98	102	102	102	102	103
October	94	95	99	99	99	99	100
November	94	95	98	99	99	99	100
December	110	111	115	116	116	116	117

Legend:

	Actual Usage Data
	Forecasted Using the Weather Normalization Model
	Forecasted Based on Assumptions

Energy Usage Forecast Assumptions:

In the years 2012 through 2015, a moderate energy growth of 0.5% is expected year to year. In 2013, NPEI anticipates that energy usage will drop by 0.25% based on the expected completion of the Ontario Power Generation tunnel project in Niagara Falls.

2.4.2 Demand

The following table summarizes NPEI's demand between 2009 and 2015. From 2009 to August 2010, the demand values were obtained from metered data. The remainder of the table contains the projected demand values based on the assumptions stated below:

	Demand (MW)						
Month	2009	2010	2011	2012	2013	2014	2015
January	180	190	187	188	185	186	187
February	183	181	190	191	187	188	189
March	187	167	181	182	178	179	180
April	150	156	156	157	153	154	155
May	157	220	198	199	196	197	198
June	223	223	241	242	239	240	241
July	205	261	265	266	262	264	265
August	255	253	271	272	268	270	271
September	187	188	196	197	193	194	195
October	161	163	169	170	166	167	168
November	177	179	186	187	184	184	185
December	194	196	202	204	201	202	203

Legend:

	Actual Demand Data
	Forecasted Based on Assumptions

Demand Forecast Assumptions:

In the years 2011 through 2015, the forecasted demand is based on the energy usage forecast and average load factor per month from 2009 and 2010. In 2013, NPEI anticipates that demand will drop by 3 MW based on the expected completion of the Ontario Power Generation tunnel project in Niagara Falls. The tunnel project's demand on NPEI's system averages 3 MW per month.

2.4.3 Load Factor

The following table summarizes NPEI's calculated load factor between 2009 and 2015:

	Demand (MW)						
Month	2009	2010	2011	2012	2013	2014	2015
January	89.6%	80.9%	85.3%	85.3%	86.7%	86.7%	86.7%
February	73.2%	74.7%	74.0%	74.0%	75.1%	75.1%	75.1%
March	74.6%	81.9%	78.3%	78.3%	79.6%	79.6%	79.6%
April	84.0%	78.1%	81.0%	81.0%	82.6%	82.6%	82.6%
May	79.2%	60.9%	70.0%	70.0%	71.1%	71.1%	71.1%
June	60.2%	65.5%	62.8%	62.8%	63.6%	63.6%	63.6%
July	71.3%	68.1%	69.7%	69.7%	70.5%	70.5%	70.5%
August	63.7%	67.7%	65.7%	65.7%	66.4%	66.4%	66.4%
September	71.1%	71.1%	71.1%	71.1%	72.2%	72.2%	72.2%
October	79.9%	79.9%	79.9%	79.9%	81.3%	81.3%	81.3%
November	72.4%	72.4%	72.4%	72.4%	73.6%	73.6%	73.6%
December	77.8%	77.8%	77.8%	77.8%	79.0%	79.0%	79.0%

Legend:

	Calculated Load Factor

3 Corporate Information

3.1 Vision Statement

Niagara Peninsula Energy is committed to delivering environmentally responsible and sustainable energy for the future of our communities.

3.2 Mission Statement

Niagara Peninsula Energy delivers safe, efficient and reliable electricity through dedicated employees in an environmentally sustainable and technologically focused manner. We provide excellence in customer service and respond to the needs of our communities.

3.3 Corporate Values

Niagara Peninsula Energy and its staff will maintain conduct with commitment to the values of:

- Integrity- we are ethical and our actions are truthful and trustworthy
- Fairness- we treat everyone equally and free of bias
- Responsibility- we provide services with safety first for our customers and employees
- Respect- we listen to each other and see value that each member of the team brings and respect the needs of our stakeholders
- Transparency- we are open and accountable for our actions and decisions

4 System Description and Reliability Performance

4.1 System Description

NPEI's distribution system consists of 1059 km of overhead primary feeders and 482 km of underground primary cable. The distribution system operates at one of the following four primary voltages:

- 27.6kV
- 13.8kV
- 8.32kV
- 4.16kV

NPEI's distribution system receives power from the Hydro One operated transmission system through one of the following supply points:

Substation Name	Primary Voltage	Secondary Voltage	# of Transformers	Station Owner	City/Town
Pelham DS	27.6 kV	4.16 kV	1	NPEI	Fonthill
Station DS	27.6 kV	4.16 kV	1	NPEI	Fonthill
Beamsville TS	115 kV	27.6 kV	2	Hydro One	Lincoln
Campden DS	27.6 kV	8.32 kV	1	NPEI	Lincoln
Greenlane DS	27.6 kV	8.32 kV	2	NPEI	Lincoln
Jordan DS	27.6 kV	8.32 kV	1	NPEI	Lincoln
Vineland DS	115 kV	27.6 kV	2	Hydro One	Lincoln
Kalar TS	115 kV	13.8 kV	2	NPEI	Niagara Falls
Murray TS	115 kV	13.8 kV	4	Hydro One	Niagara Falls
NF Station 3	13.8 kV	4.16 kV	1	NPEI	Niagara Falls
NF Station 6	13.8 kV	4.16 kV	1	NPEI	Niagara Falls
NF Station 7	13.8 kV	4.16 kV	1	NPEI	Niagara Falls
NF Station 8	13.8 kV	4.16 kV	2	NPEI	Niagara Falls
NF Station 10	13.8 kV	4.16 kV	1	NPEI	Niagara Falls
NF Station 14	13.8 kV	4.16 kV	1	NPEI	Niagara Falls
NF Station 17	13.8 kV	4.16 kV	1	NPEI	Niagara Falls
NF Station 18	13.8 kV	4.16 kV	1	NPEI	Niagara Falls
NF Station 22	13.8 kV	4.16 kV	1	NPEI	Niagara Falls
NF Station 23	13.8 kV	4.16 kV	1	NPEI	Niagara Falls
Stanley TS	13.8 kV	4.16 kV	2	Hydro One	Niagara Falls
Bismark DS	27.6 kV	8.32 kV	1	Hydro One	West Lincoln
Niagara West TS	230 kV	27.6 kV	2	NWTC	West Lincoln
Smithville DS	27.6 kV	8.32 kV	1	NPEI	West Lincoln

NPEI monitors its distribution system through a supervisory control system at its main office located in Niagara Falls. The system is used to monitor and control all TS supply breakers feeding NPEI's distribution system. The Supervisory Control and Data Acquisition System ("SCADA") is monitored twenty-four hours a day, seven days a week.

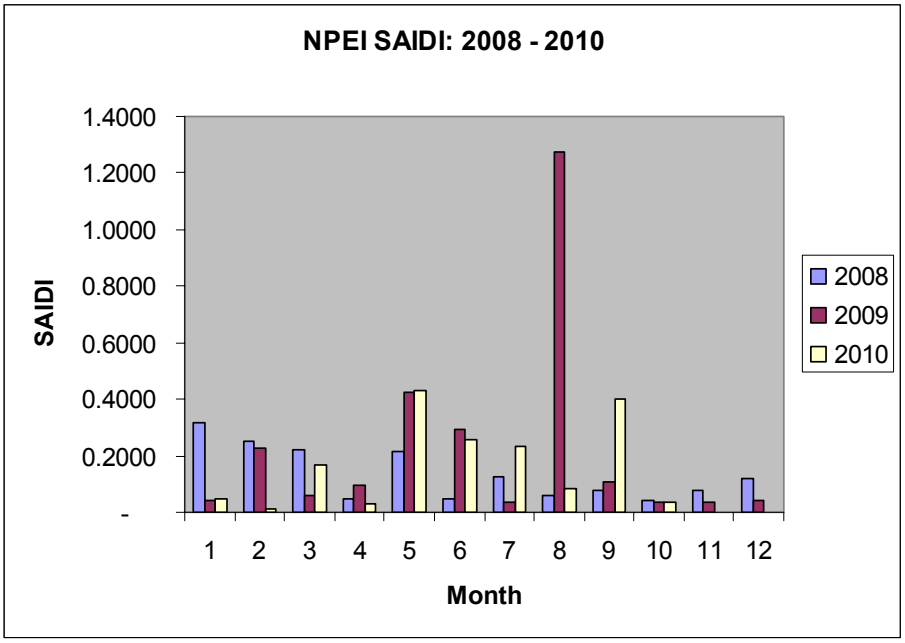
4.2 Main Asset Categories

The table below shows the number of assets in each of NPEI's major asset categories:

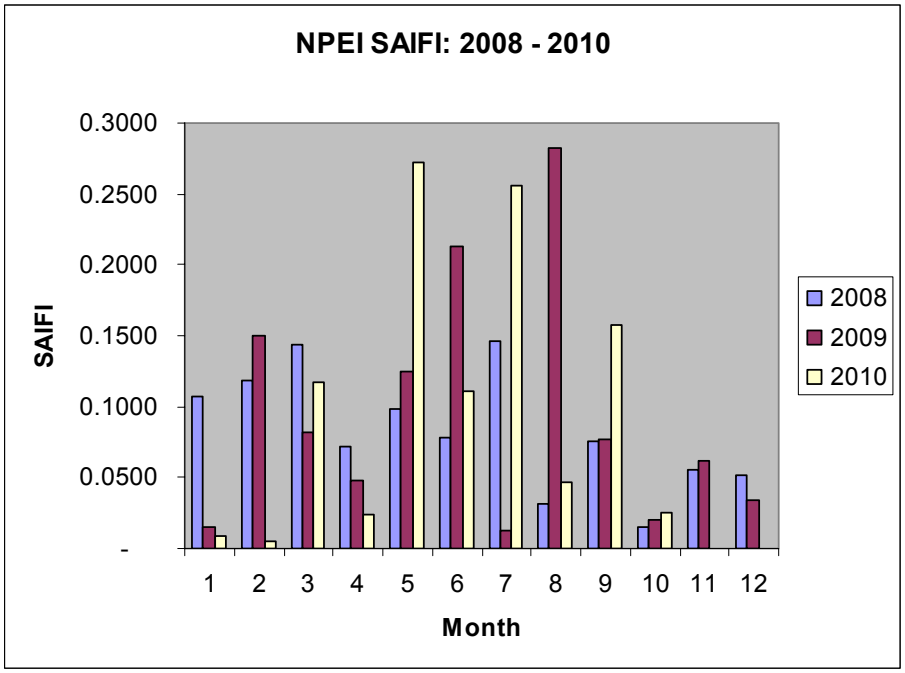
Asset Description	Population
Station Power Transformers	21
Large Pad Mounted Transformers (> 750 kVA)	56
Standard Pad Mounted Transformers (< 750 kVA)	2408
Pole Top Transformers	6835
Poles	22247
Pad Mounted Switchgear	89

4.3 System Performance

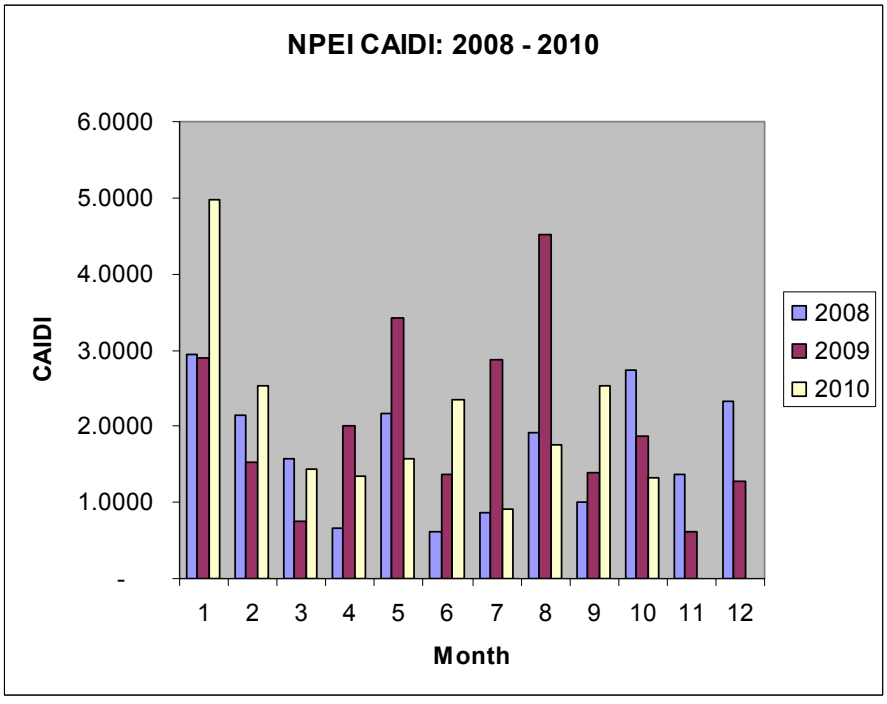
The following chart summarizes NPEI's System Average Interruption Duration Index (SAIDI) by month for 2008 through 2010:



The following chart summarizes NPEI's System Average Interruption Frequency Index (SAIFI) by month for 2008 through 2010:



The following chart summarizes NPEI's Customer Average Interruption Duration Index (CAIDI) by month for 2008 through 2010:



NPEI has compiled outage data used to derive SAIDI, SAIFI, and CAIDI since the merger. This data as well as historical values from the former two utilities indicate higher than desired values for SAIDI, specifically in the western portion of NPEI's service territory. Following the merger, NPEI has implemented initiatives that specifically target improving this index such as the installation of feeder sectionalizing and advanced reclosing devices. In 2010 NPEI's distribution system performed with an improved SAIDI compared to previous years.

5 Major External Challenges

5.1 Smart Grid

NPEI is in the early stages of developing a formal smart grid strategy. NPEI leverages a mature geographic information system (GIS) to manage asset data. NPEI'S high level strategy is to build on the current GIS functionality in support of smart grid operations.

NPEI is currently implementing a work force management / outage management (WFMS/OMS) system that leverages GIS data. This system is used to manage the distribution of work to NPEI crews as well as to manage the distribution system operationally. NPEI has a long term strategy to integrate smart meters and smart devices with the OMS as the foundation of its smart grid.

Smart Grid technologies are factored into new equipment purchases where feasible from a technical and cost perspective.

5.2 DG Connections

NPEI currently has 30 microFIT connections on its system and is averaging 5 new connections per month as of December 2010. NPEI also has 1.25MW of generation connected under the FIT program as well as applications for an additional 10MW.

5.3 Municipal Commitments – Load Growth

NPEI has experienced a moderate and consistent level of load growth in the residential customer class. Approximately 500 new residential customer connections have been performed per year since the incorporation of NPEI.

Commercial development in NPEI's service area has been consistent since incorporation. Approximately 1.5 MVA of new commercial load has been connected to NPEI's system per year.

Currently, NPEI does not supply any significant industrial sector load.

NPEI anticipates that the level of growth in both the residential and commercial customer classes will remain consistent in the coming years. A capital expenditure allowance has been established to permit the connection of new customer loads based upon historical levels.

5.4 Municipal Commitments – Infrastructure

NPEI's capital expenditures have been influenced significantly by external factors in recent years. Federal and provincial stimulus funding for infrastructure improvements has resulted in a substantial increase in municipally driven construction activities. Due to obligations under the Municipal Act to accommodate road reconstruction projects, NPEI has substantially increased capital expenditures related to these activities.

We anticipate that a return to pre-stimulus infrastructure spending levels will reduce the capital requirement for these types of projects. Going forward, NPEI has allocated capital funding for such projects based on pre-stimulus historical requirements. As such projects are externally driven; NPEI may experience elevated levels of investments in this area.

6 Major Internal Initiatives

6.1 Information Technology Initiatives

NPEI manages data related to its assets in a corporate geographic information system (GIS). The GIS is Intergraph's G/Technology system designed and customized for electric utilities based in Ontario. All of the distribution assets that are managed by NPEI are modeled within the GIS. NPEI has invested heavily in GIS data as it provides a foundation for managing the lifecycle of assets. NPEI has integrated the GIS to its corporate customer information system (CIS), financial systems, analysis software, and its outage management system.

Inspection data collected by NPEI is linked to specific asset features within GIS. The GIS is used to analyze inspection results and prioritize the required corrective maintenance or replacement activities. Any maintenance activity and associated data is also tracked in the GIS.

NPEI routinely uses Distribution Engineering Simulation Software (DESS) to analyze the distribution system. NPEI has integrated DESS with the GIS to ensure that the model used for engineering analysis is kept current with minimal effort. DESS supports decisions made by NPEI's engineering and operations staff related to the design and operation of the distribution system.

NPEI is currently implementing an outage management system (OMS). The GIS provides the data utilized by the OMS and as such, the two systems have been integrated. The OMS automates several stages of outage management for operations staff at the utility. The system tracks and manages calls, predicts probable points of failure, and provides a mechanism to dispatch outage related work orders to field crews electronically. Beyond outage type work flows, the system also provides work force management capability. The system is utilized to mange work assignment to operations field staff electronically.

6.2 Kiosk/Submersible Replacement Program

NPEI's distribution system contains approximately 200 legacy switching cubicle installations referred to as kiosks. A kiosk is a masonry structure with a metal or concrete lid that contains primary voltage switching apparatus. These installations do not conform to current distribution standards and are at end of life. The installations are inspected on a 5 year cycle to confirm condition. The inspection results are assessed annually to prioritize units that require replacement with new equipment. In a typical year, NPEI replaces 15 to 20 kiosks.

NPEI also has submersible distribution transformer installations on its system which are at end of life. These installations do not meet current standards and are subject to premature failure. A program is in place to replace these installations with pad mounted transformation. At the end of 2010, NPEI had 18 submersible installations remaining on its distribution system. NPEI typically replaces approximately 20 of these installations a year which will lead to the elimination of submersible transformers from the system by the end of 2011.

6.3 Pole Replacement Program

NPEI has been inspecting and testing poles on its distribution system since 2004. Approximately 5000 poles are tested per year. Wood poles are tested using a sound and bore method. Steel and concrete poles are visually inspected. All overhead distribution apparatus installed on poles are visually inspected at the time of the pole test.

The resulting data from the annual pole testing program is analyzed in order to prioritize the required pole replacements. NPEI replaces between 150 and 250 poles annually under the pole replacement program.

6.4 Switchgear Replacement Program

NPEI has 89 primary voltage switchgear installations on its distribution system. Approximately 20 units are inspected annually. The inspection consists of a visual condition assessment, infrared scan, and ultrasonic scan.

The resulting data from the annual switchgear inspection program is analyzed in order to prioritize the required switchgear replacements. NPEI replaces approximately 4 units per year under the switchgear replacement program.

6.5 Vegetation Management

Following the merger in 2008, NPEI adjusted its tree trimming program for the overall service area. The western portion of the service area (Lincoln, West Lincoln and Fonthill) is split into 4 trimming areas (1 per year) based on experience in growth rate. The eastern portion of the service area (Niagara Falls) is split into 5 trimming areas (1 per year).

6.6 Other Reliability Initiatives

NPEI strives to improve reliability on its distribution system through the design and incorporation of features such as:

- Wildlife Bushing Guards
- Insulated Drop Leads
- Insulated Switch Brackets/Bases
- Over Insulated Components
- Increased Designed Clearances
- Encapsulated Switching and Terminal Components
- Covered Line Wire
- Advanced Reclosers and Controls

The application of these components minimizes the occurrence of foreign interference with the distribution system that negatively impacts the reliability of service to our customers.

7 Business Practices

7.1 Proactive vs. Reactive Replacements

Based on replacement practices, assets can be divided into 2 distinct categories: assets that are replaced "reactively" only when they fail, and assets that are replaced "pro-actively" based on their condition before they fail.

Failure of assets that are replaced "proactively" usually does not result in significant cost and/or risk to corporate objectives and values. Conversely, failure of assets that are replaced "reactively" usually results in significant incremental cost over and above planned replacement cost and, furthermore, poses high risk to objectives and values.

NPEI "proactively" replaces distribution facilities as part of the Internal Initiatives described in the Section 6.

7.2 Maintenance Practices

NPEI follows the requirements outlined in the distribution system code. The following table summarizes maintenance practices on major equipment within NPEI's asset base:

Equipment	Cycle	What is Done
TS/DS Inspection	Monthly	Visual Inspection
Station Transformers	Annually	Oil Analysis, Dissolved Gas Analysis, Visual Inspection
Large Padmounted Transformers	Annually	Oil Analysis, Dissolved Gas Analysis, Visual Inspection
Small Padmounted Transformers	5 Year Cycle	Infrared Scan, Ultrasonic Scan, Visual Inspection
Poles	5 Year Cycle	Sound and Bore (Structural Integrity Assessment), Treatment Application, Component Inspection
Switchgear	5 Year Cycle	Infrared Scan, Ultrasonic Scan, Visual Inspection
Manholes/Civil Structures	5 Year Cycle	Visual Inspection, Cleaning
Switching Kiosks	5 Year Cycle	Condition Review, Prioritized Elimination of Legacy Equipment
Vegetation Management	5 Year Cycle	5 Year Cutback

7.3 Work Integration

NPEI adjusts its maintenance practices and sustainment capital programs due to their inherent interdependencies and to account for internal initiatives. An adjustment is made in situations where commercial and operational benefits can be achieved. Examples of this include:

- Reducing capital replacement cost projections to account for distribution plant that will be replaced as a part of an externally driven project, such as a municipal road widening
- Initiation of a rebuild project rather than per pole replacement approach due to the quantity of identified deficiencies in a test area
- Extension in maintenance activities to provide increased life expectancy in distribution assets where a known end of service date exists

8 Asset Condition Assessment

NPEI retained the services of Kinectrics Inc. to carry out an Asset Condition Assessment of NPEI's key distribution assets. The resulting Distrubtion Asset Condition Assessment report is included in Appendix A of this document.

9 2011 Business Plan

9.1 Sustaining Capital with Major Project Types

Item	Project Type	Sustainment Capital
1	Replacement of distribution facilities due to deteriorated condition	$2,005,619
2	Line extensions/relocations due to municipal road work requirements	$388,370
3	Replacement of poles identified with limited structural integrity	$1,226,524
4	Required overhead line rebuild of deteriorated facilities identified in the pole condition survey	$776,740
5	Replacement of kiosks and submersible transformers	$480,835
6	Minor Betterments	$488,926
		$5,367,014
	Less Capital Contributions	$-100,000
	Total	**$5,267,014**

9.2 Development Capital with Major Project Types

Item	Project Type	Development Capital
1	Expansion of the primary distribution system to accommodate load growth and reliability requirements	$1,295,495
2	Subdivisions and new residential services	$631,059
3	Demand based system requirements for new commercial service connections and expansions	$1,156,938
	Projects under materiality	$194,185
		$3,227,677
	Less Capital Contributions	$-750,000
	Total	**$2,527,677**

9.3 Other Capital

Item	Type	Other Capital
1	Metering	$185,185
2	Vehicles	$462,963
3	Other Capital	$659,954
	Total	**$1,308,102**

9.4 O&M with Major Categories

Item	Type	Other Capital
1	Stations	$190,778
2	Overhead Lines	$1,921,782
3	Underground	$651,140
4	Other	$3,378,406
	Total	**$6,142,106**

9.5 Billing and Collecting with Major Categories

Item	Type	Other Capital
1	Billing	$3,302,566
2	Collecting	$893,163
3	Community Relations	$81,464
	Total	**$4,277,193**

9.6 General and Administration

Item	Type	Other Capital
1	G & A	$3,876,136

10 2012-2015 Business Plan

10.1 Sustaining Capital

Year	Amount
2012	$5,223,331
2013	$5,320,205
2014	$5,368,186
2015	$5,464,149

10.2 Development Capital

Year	Amount
2012	$2,766,249
2013	$2,908,623
2014	$2,981,100
2015	$3,101,559

10.3 Other Capital

Year	Amount
2012	$1,324,074
2013	$1,273,148
2014	$1,273,148
2015	$1,273,148

10.4 O&M

Year	Amount
2012	$6,278,477
2013	$6,418,728
2014	$6,562,315
2015	$6,709,323

10.5 Billing and Collecting

Year	Amount
2012	$4,365,422
2013	$4,463,294
2014	$4,563,847
2015	$4,667,161

10.6 General and Administration

Year	Amount
2012	$3,963,342
2013	$4,052,768
2014	$4,144,473
2015	$4,238,521

Appendix A – NPEI Distribution Asset Condition Assessment Report

The remaining pages of this document contain the Distribution Asset Condition Assessment Report produced by Kinectrics Incorporated.

Niagara Peninsula Energy Inc

Distribution Asset Condition Assessment

Kinectrics Report: K-418046-RC-001-R3

February 10, 2011

PRIVATE INFORMATION

Kinectrics Inc., 800 Kipling Avenue, Unit 2, Toronto, Ontario, Canada M8Z 6C4

DISCLAIMER

Kinectrics Inc. has prepared this report in accordance with, and subject to, the terms and conditions of the agreement between Kinectrics Inc. and Niagara Peninsula Energy Inc.

@Kinectrics Inc., 2011.

DISTRIBUTION ASSET CONDITION ASSESSMENT

Kinectrics Report: K-418046-RC-001-R3

February 10, 2011

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Dated: Feb 9, 2011

Revision History

Revision Number	Date	Comments	Approved
R0	December 20, 2010	Initial Draft	N/A
R1	January 28, 2011	Final Draft	N/A
R2	February 9, 2011	Final Report	SC
R3	February 10, 2011	Final Report (re-formatted)	

EXECUTIVE SUMMARY

Niagara Peninsula Energy Inc (NPEI) retained Kinectrics Inc. (Kinectrics) to carry out an Asset Condition Assessment (ACA) of NPEI's key distribution assets. The assets were divided into several Asset Groups. For each of these Asset Groups, the ACA included the following tasks:

- Derive Health Indexes
- Conduct Field Surveys
- Provide Capital Replacement Plan
- Recommend condition data gap closure strategy

This report summarizes the methodology, demonstrates specific approaches used in this project, and presents the resultant findings and recommendations.

Information Availability and Health Index Methodology

The general methodology for Asset Condition Assessment is described, while each Asset Group is presented in detail in its own section. Where appropriate, the formulations were modified based on the expert opinion of NPEI staff, for example air-insulated pad mounted switchgear located near major roads were automatically assigned poor condition and, thus, flagged for replacement. Field observations generally supported the Health Index distribution derived using Kinectrics' methodology. Some differences could be attributed to the fact that the field survey observations weigh all the condition parameters equally while the Health Index formulation used a weighted sum of condition parameters scores.

Health Index Results Summary

For six of the seven Asset Groups there was sufficient asset information to calculate Health Indexes. Table ES - 1 shows, for each of the seven Asset Group, the total number of assets, sample size, and Health Index distribution. Detailed results for each Asset Group are shown in Section C RESULTS AND FINDINGS.

Table ES - 1 Health Index Results Summary

ASSET			SAMPLE SIZE		HEALTH INDEX DISTRIBUTION				
No	Description	Population	Units	%	Very Poor	Poor	Fair	Good	Very Good
1	Power Transformers	21	*21*	*100%*	0%	17%	26%	22%	35%
2	Large Pad Mounted Transformers	56	*51*	*91%*	0%	2%	6%	27%	65%
3	Standard Pad Mounted Transformers	2,408	*716*	*30%*	5%	1%	1%	4%	89%
4	Pole Top Transformers	6,835	*6,711*	*98%*	1%	4%	11%	17%	67%
5	Poles	22,247	*5,985*	*27%*	0%	5%	6%	28%	61%
6	Pad Mounted Switchgear	89	*38*	*43%*	8%	34%	3%	18%	37%

Capital Replacement Plan

The Capital Replacement Plan (CRP) includes two aspects: the number of units that are planned to be replaced and the corresponding replacement cost. For asset categories 2 through 6 capital requirements for the whole population were extrapolated from the sample and the comments regarding appropriateness of such an assumption were included in Section C for each of these asset categories.

The number of units to be replaced was estimated based on asset condition and the corresponding probability of failure. Table ES - 2 summarizes the assumed replacement cost, replacement plan approach, and resultant capital replacement plan in the first year as well as the capital replacement plan approach. Assets which are 'run to failure' are replaced reactively, compared to those assets which are replaced proactively.

Table ES - 2 Capital Replacement Plan Summary

Asset	Assumed Replacement Cost	Units to Replace in First Year	Planned Capital Replacement Cost in First Year	CRP Approach
Power Transformers	$300,000	1	$300,000	Proactive
Large Pad Mounted Transformers	$45,000	0	$0	Proactive
Standard Pad Mounted Transformers	$15,000	31	$465,000	Proactive
Pole Top Transformers	$5,000	38	$190,000	Reactive
Poles	$5,000	160	$800,000	Reactive
Pad Mounted Switchgear	$75,000	5	$375,000	Proactive

The scheduling of capital expenditure for assets which are replaced **proactively** has been levelized so replacement is done over a period of time after the optimal replacement year. Those assets which are replaced **reactively** also have a levelized schedule so replacement is done over a period of time before the optimal replacement year. This methodology is to ensure that run to failure assets are replaced before they fail.

Figure ES – 1 presents the Overall Levelized Capital Replacement Plan. This is the total replacement projections for all the assets over the next five (5) years in 2011 dollars (cost does not take inflation rates into account).

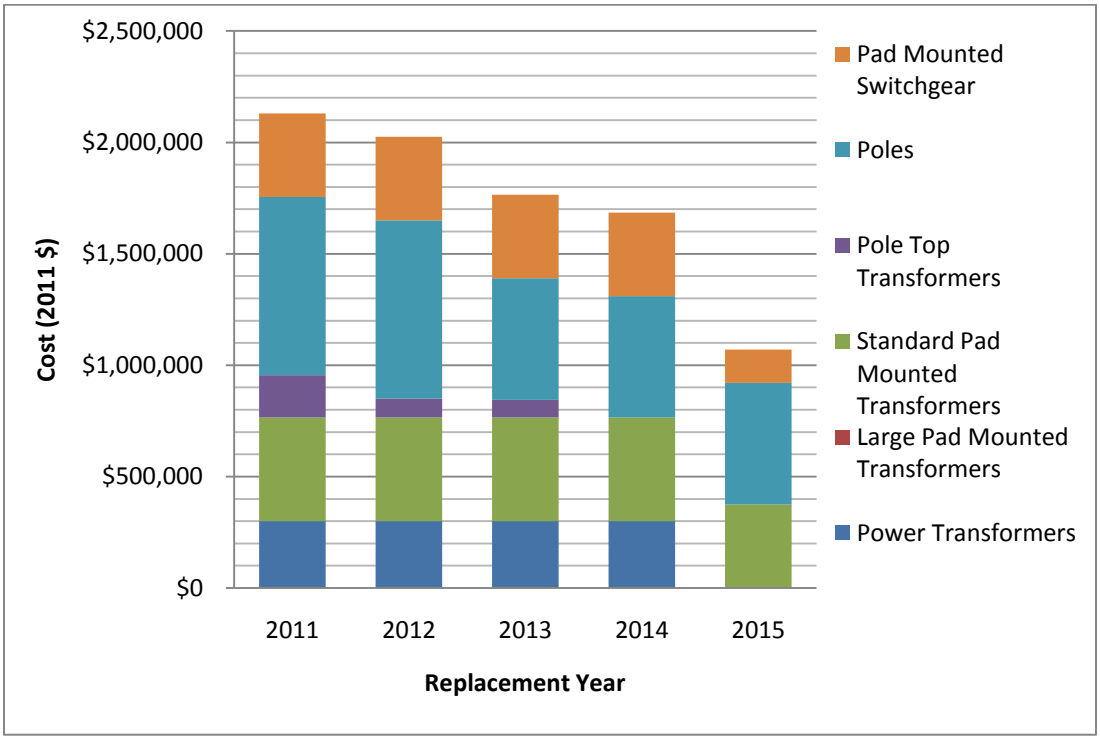


Figure ES - 1 Five Year Capital Replacement Plan

Conclusions and Recommendations

1. There was generally sufficient condition data available for Power Transformers, Large Pad-mounted Transformers, Poles (inspected after 2008) and Switchgear.

2. For Pole-mounted transformers, only age and operating practices were available (i.e., number of customers serviced by each transformer). Gathering and recording detailed inspection data should be considered.

3. For Standard Pad Mounted Switchgear, age was provided for 87% of the population however sufficient data was provided for only 28% of the population. It is recommended that NPEI collect data for a greater population of Pad Mounted Switchgear.

4. For Poles that have not been inspected, age is only available for half of the population. Sufficient age and inspection data should be collected for the rest of the population.

5. Sufficient data was not available for Underground Cables. It is recommended that inspection and maintenance information be collected for these assets to enable future asset condition assessment.

6. Comparison of poles with adequate condition data vs poles with only age known shows that the former have a better overall condition than the latter. This is due to the fact that over the last several years substantial capital investments were made to achieve that. It is therefore recommended that capital investments be made to bring be made to bring the rest of the pole population to the same Health Index distribution as the subset with adequate condition data.

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A INTRODUCTION

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To: Niagara Peninsula Energy
7447 Pin Oak Drive
Niagara Falls, ON L2E 6S5

INTRODUCTION

Niagara Peninsula Energy Inc (NPEI) supplies electricity to homes and businesses and is regulated by the Ontario Energy Board.

Kinectrics Inc. (Kinectrics) is an independent consulting engineering company with the advantage of 90 years of expertise gained as part of one of North America's largest integrated electric power companies. Kinectrics has a depth of experience in the area of transmission and distribution systems and components and has become a prime source of Asset Management and Asset Condition services to some of the largest power utilities in North America.

NPEI retained the services of Kinectrics to carry out condition assessment of its electrical distribution system assets.

A considerable portion of this work was devoted to the development of Health Indices based on the information provided by NPEI, a brief visual field survey conducted by Kinectrics and the expert opinion of NPEI staff.

This report presents the findings of the NPEI's distribution assets condition assessment and includes the development of Health Indices for the specified Asset Groups.

Objective

Kinectrics performed an Asset Condition Assessment of NPEI's electrical distribution system. The following distribution system assets, referred to as Asset Groups throughout this report, were covered under the scope of work for this project:

1 Power Transformers
2 Large Pad-Mounted Transformers
3 Standard Pad-Mounted Transformers
4 Pole-Top Transformers
5 Poles
6 Pad Mounted Switchgear

As part of the asset condition assessment, a visual inspection of the power system physical assets was conducted by Kinectrics. The objective of the inspections was to confirm the average condition of the equipment as indicated by the condition data bases provided to Kinectrics.

Scope of the Work

The project includes the following:

1 Provide Recommended Health Index formulations used to derive Health Indices
2 Calculate and provide Health Index distribution for each of the aforementioned asset categories
3 Provide Capital Replacement Plan
4 Identify condition data gaps and provide recommendations for their prioritized closure

These areas and the factors of assessments covered under this project, are based on Kinectrics experience and familiarity with the industry requirements, and provides rational for the capital replacement expenditures being sought by NPEI. As such, the results will help NPEI in its service rate application submission to the OEB and will provide a basis for a medium to long-term capital plan for its distribution assets. It is worth noting, however, that replacement requirement due to poor asset condition is not the only basis for developing a capital plan: other factors, such as obsolescence, design flaws, exposure to severe environmental conditions, system requirements, etc. should also be taken into account when developing such plan.

Visual field inspection was conducted at several locations and included:

- 3 locations of three-phase pad mounted transformers
- 2 locations of overhead switches
- 5 locations of wood poles
- 2 locations of pole mounted transformers,
- 1 location of pad mounted switchgear
- 2 locations of distribution station transformers.

All of the locations were inspected directly by Kinectrics staff that traveled to the sites accompanied by a NPEI employee. The sample locations were scattered at 11 geographic areas within the service territory of NPEI.

Deliverables

The deliverables in this report include the following information:

- Short description of the asset groups being considered in the study
- Discussion of asset degradation and end-of-life issues
- Health Index results for the Asset Groups
- Description of methodology for assessment of asset replacements
- Capital replacement plan
- Data Gap Closure
- Field inspection results

B ASSET CONDITION ASSESSMENT METHODOLOGY

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Health Indexing

Health Indexing quantifies equipment condition based on numerous condition criteria that are related to the long-term degradation factors that cumulatively lead to an asset's end of life. The Health Index (HI) is an indicator of the asset's overall health and is typically given in terms of percentage, with 100% representing an asset in brand new condition. Health Indexing differs from maintenance testing, whose objective is finding defects and deficiencies that need correction or remediation in order to keep an asset operating prior to reaching its end of life.

Condition Parameters are the asset characteristics that are used to derive the Health Index. In formulating a Health Index, condition parameters are ranked and evaluated, through the assignment of corresponding weights, based on their contribution to asset degradation. The condition parameter score is an evaluation of an asset with respect to a condition parameter.

A condition parameter may also be comprised of several sub-condition parameters. For example, a parameter called "insulation" for power transformers may be a composite of Oil Quality and Oil DGA.

The Health Index, which is a function of the condition parameter scores and weightings, is therefore given by:

$$HI = \frac{\sum_{m=1}^{\forall m} \alpha_m (CPS_m \times WCP_m)}{\sum_{m=1}^{\forall m} \alpha_m (CPS_{m.\max} \times WCP_m)}$$

where

$$CPS = \frac{\sum_{n=1}^{\forall n} \beta_n (CPF_n \times WCPF_n)}{\sum_{n=1}^{\forall n} \beta_n (CPF_{n.\max} \times WCPF_n)}$$

CPS	Condition Parameter Score
WCP	Weight of Condition Parameter
α_m	Data availability coefficient for condition parameter (=1 when data available, =0 when data unavailable)
CPF	Sub-Condition Parameter Score
WCPF	Weight of Sub-Condition Parameter
β_n	Data availability coefficient for sub-condition parameter (=1 when data available, =0 when data unavailable)

While weightings are assigned based on the priority level of condition parameters, scores represent the evaluation of an asset against condition criteria. A condition criterion is the scale that is used to determine an asset's score for a particular parameter.

Consider, for example, a system where the Health Index is described under one of the following five categories: very poor, poor, fair, good, and very good. A scoring system of 0 through 4 corresponds to the "very poor" through "very good" categorization. Consider a parameter "age" for which this scoring

system is applied. The condition criteria will define the age that constitutes scores of 0 through 4 (i.e. a pole mounted transformer that is 50 years old will receive a score of 0; whereas one that is 2 years old will receive the maximum score of 4). Note that in this study, the condition criteria scoring system consist of values from zero (0) through four (4), with 0 being the worst and 4 being the best score.

De-rating factors are also used to adjust a calculated Health Index to reflect certain conditions. These may be factors that may or may not be related to asset condition, but contribute to the asset's risk of failure. For example, an air-insulated Pad Mounted Switchgear by a major roadway is prone to problems. Dominant parameters may be used as de-rating factors. These are asset properties that are considered to be of such importance that its status has a dominant impact on the value of the Health Index. De-rating factors are used to reduce the Health Index of an asset by a certain percentage. If a calculated Health Index is, say, 90%, a de-rating factor of 80% will reduce the effective Health Index to 90% x 80% = 72%.

Relating Health Index to Effective Age

Once the Health Index of an asset is determined, its *effective age* can be evaluated by establishing a relationship between its Health Index and its probability of failure. Effective age is different from chronological age in that it is based on the asset's condition and the stress stresses applied to the asset.

Probability of Failure

Where failure rate data is not available, a frequency of failure that grows exponentially with age provides the best model. The failure rate equation is in the form of:

$$f = e^{\beta(t-\alpha)}$$

where

f = failure rate of an asset (frequency or the number of expected failures per year) at time t
t = time
α, β = constant parameters that control the rise of the curve

The corresponding probability of failure is given as:

$$P_f = 1 - e^{-(f-e^{\alpha\beta})/\beta}$$

where

P_f = probability of failure
f = failure rate of an asset
α, β = constant parameters that control the rise of the curve

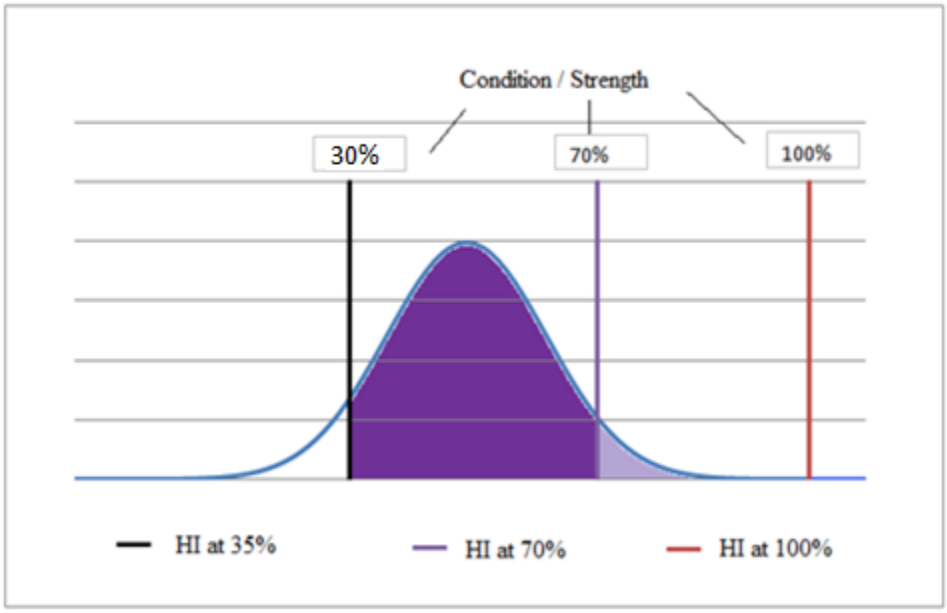
Different assets groups experience different failure rates and therefore different probabilities of failure. As such, the shapes of the failure and probability curves are different. The parameters α and β are used

control the location and steepness of the exponential rise of these curves. For each asset group, the values of these constant parameters were selected to reflect typical useful lives for these assets.

Quantitative Relationship Between Health Index and Probability of Failure

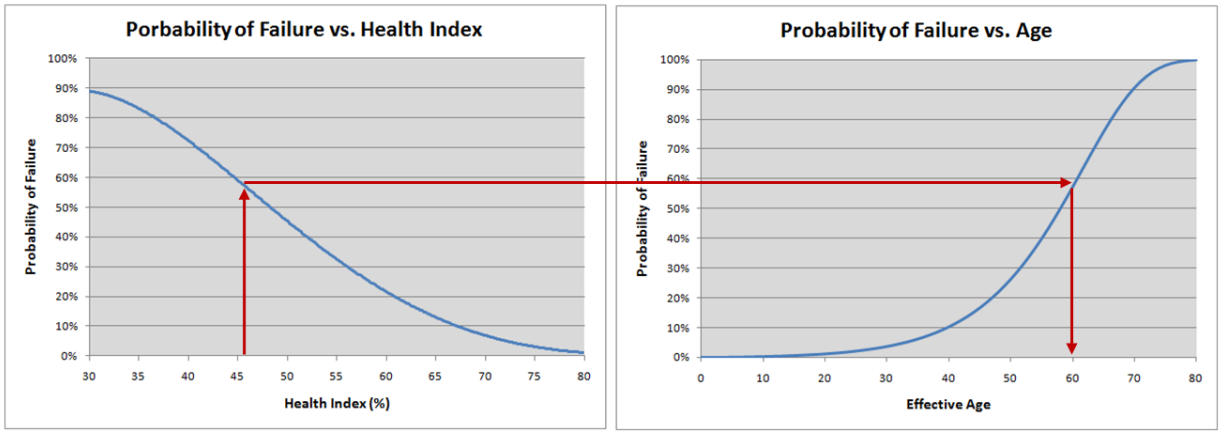
Failure of an asset occurs when the stress that an asset experiences exceeds is strength. Assuming that stress is not constant and the stress probability is normally distributed, the probability of stress exceeding asset strength leads to the probability of failure.

Consider the Health Index to be a representation of condition. Two Health Index points and the probabilities of failure at those Health Index points can be used to find the probabilities of failure at other Health Index values. This is illustrated in the figure below. The vertical line represents condition (Health Index) and the area under the curve to the right of the line represents the probability of failure. A Health Index of 100% represents an asset that is in brand new condition and a Health Index of 30% at its end of life. Moving the vertical line left from 100% to 30%, the probabilities of failure at other Health Indices can be found.



Effective Age and Remaining Life

The effective age associated with a particular Health Index is found by first plotting the Probability of Failure vs. Health Index curve. This is the area under the probability density curve between the 100% and 30% Health Index points. This curve is shown on the left hand graph of the figure below. The associated probability of failure is then found on Probability of Failure vs. Age graph (right hand graph). The effective age is read from the horizontal axis of the right hand graph.



Relationship between Health Index and Effective Age

The remaining life can be estimated as the difference between the asset's maximum life expectancy and its effective age. For example, a pole mounted transformer that has an effective age of 35 years will have a remaining life of 45-35 = 10 years.

Capital Replacement Plan

Simple Replacement

Asset groups that have little consequence of failure or that are run to failure are reactively replaced. The number of predicted failures multiplied by the replacement cost per unit at the year of failure determined the yearly investments for the asset group.

Risk Analysis

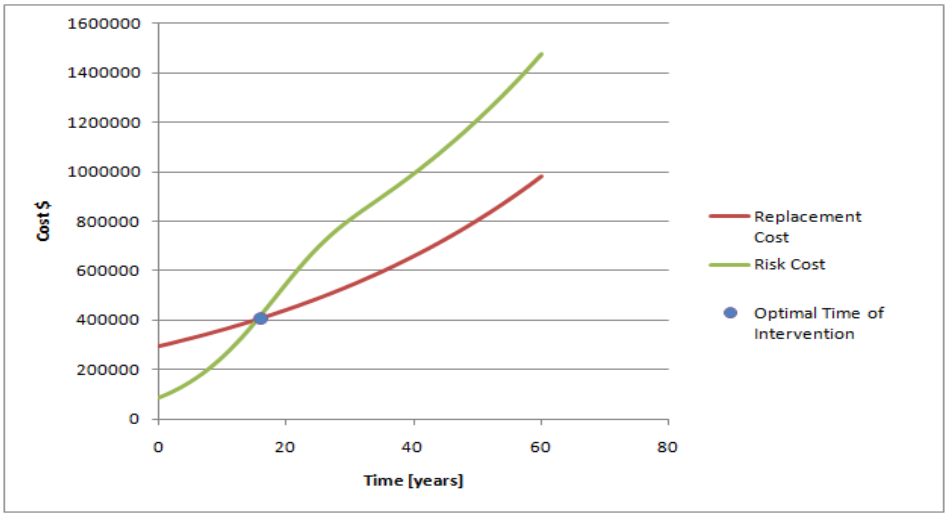
For assets that are have a high consequence of failure (i.e. power transformers), risk analysis determined the economic optimal time of intervention. Planned replacement cost, cost of failure, and risk cost were considered.

The utility's *costs of failure* for an asset can include the replacement cost of the asset, any collateral damage to adjacent equipment, environmental clean-up costs, overtime labour premiums, and the lost revenue. Some utilities also include the cost of interruptions to customers. For this analysis, the cost of failure was estimated as a multiple of its planned replacement cost. For non-critical power transformers, the cost of failure was defined as 1.5 times the planned replacement cost, whereas for critical power transformers, the cost of failure multiple was 2.

The *risk cost* is defined as the failure cost times the probability of failure, probability of failure is dependent on an asset's effective age.

The optimal time of intervention (refurbishment or replacement) was found as the point where the risk cost begins to exceeds the replacement cost. The number of units that were flagged for replacement in

a given year times replacement cost for the given year determined the investment required for that year.



Data Gap Closure

Prioritized strategy for data gap closure is included for each asset category using 3 priority levels, from the highest (3 stars) to the lowest (a single star). It is recommended to start collecting condition data for the highest priority condition parameters as this will improve credibility of the Health Index results the most. This is the case for both assets with some condition data available and assets with no condition data available.

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C RESULTS AND FINDINGS

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1 Power Transformers

The application of substation station transformers generally involves the step down of a higher to lower voltage. Power transformers vary in capacity and ratings over a broad range.

Station transformers employ many different design configurations, but they are typically made up of the following main components:

- Primary, secondary and, possibly, tertiary windings
- Laminated iron core
- Internal insulating media
- Main tank
- Bushings
- Cooling system, including radiators, fans and pumps (Optional)
- Off load tap changer (Optional)
- On load tap changer (Optional)
- Instrument transformers
- Control mechanism cabinets
- Instruments and gauges

1.1 Degradation Mechanism

For a majority of transformers, End-of-Life (EOL) is expected to be caused by the failure of the insulation system and more specifically the failure of pressboard and paper insulation. While the insulating oil can be treated or changed, it is not practical to change the paper and pressboard insulation. The condition and degradation of the insulating oil, however, plays a significant role in aging and deterioration of the transformer, as it directly influences the speed of degradation of the paper insulation. The degradation of oil and paper in transformers is essentially an oxidation process. The three important factors that impact the rate of oxidation of oil and paper insulation are the presence of oxygen, high temperature, and moisture.

Oil analysis is such a powerful diagnostic and condition assessment technique that combining it with background information, related to the specification, operating history, loading conditions and system related issues, provides a very effective means of assessing the condition of transformers and identifying units with a probable high risk of failure. It is the ideal means on which to base an ongoing management strategy for aging transformers, identifying units that warrant consideration for continued use, consideration of remedial measures to extend life or identification of transformers that should be considered for replacement within a defined time frame.

Other condition assessment techniques for substation transformers include the use of online monitors, capable of monitoring specific parameters, e.g. dissolved gas monitors, continuous moisture measurement or temperature monitoring, winding continuity checks, DC insulation resistance measurements and no-load loss measurements. Dielectric measurements that attempt to give an indication of the condition of the insulation system include dielectric loss, dielectric spectroscopy, polarization index, and recovery voltage measurements. Doble testing is a procedure that falls within this general group. Other techniques that are commonly applied to

transformers include infrared surveys, partial discharge detection and location using ultrasonic and/or electromagnetic detection and frequency response analysis.

The health indicator parameters for substation transformers usually include:

- Condition of the bushings
- Condition of transformer tank
- Condition of gaskets and oil leaks
- Condition of transformer foundations
- Oil test results
- Transformer age and winding temperature profiles
- Maximum loading profile

1.1.1 *Failure Mechanism of Station Transformers*

1.1.1.1 Thermal Aging:

Thermal aging involves the progress of chemical and physical changes because of chemical degradation reactions, polymerization, depolymerization, and diffusions.

1.1.1.2 Electrical Aging:

Electrical aging, as it relates to AC, impulse, or switching involves the effects of the following:

- partial discharges
- treeing
- electrolysis
- increased temperatures produced by high dielectric losses
- space charges

1.1.1.3 Mechanical Aging

Mechanical aging involves the following:

- fatigue failure of insulation components caused by a large number of low-level stress cycles
- thermo mechanical effects caused by thermal expansion and or contraction
- rupture of insulation by high levels of mechanical stress such as may be caused by external forces or operation condition of the equipment
- Insulation creep or flow under electrical, thermal, or mechanical stresses

1.2 Health Index Formulation

Recommended Health Index Formulations:

$$HI = \frac{\sum_{m=1} \alpha_m (CPS_m \times WCP_m)}{\sum_{m=1} \alpha_m (CPS_{m.\max} \times WCP_m)} \times DF$$

where

$$\mathrm{CPS} = \frac{\sum_{n=1} \beta_n (\mathrm{CPF_n} \times \mathrm{WCPF_n})}{\sum_{n=1} \beta_n (\mathrm{CPF_{n.max}} \times \mathrm{WCPF_n})} \times 4$$

CPS --- Condition Parameter Score
WCP --- Weight of Condition Parameter
DF --- De-rating Factor

CPF --- Sub-Condition Parameter Factor
WCPF --- Weight of Condition Parameter Factor

α_m --- Data availability coefficient for condition parameter (=1 when data available, =0 when data unavailable)
β_n --- Data availability coefficient for condition factor (=1 when data available, =0 when data unavailable)

1.3 Condition and Sub-Condition Parameters

Table 1-1 Condition Weights and Maximum CPS

m	Condition parameter	WCP_m	$CPS_{m.max}$
1	Insulation	4	4
2	Sealing & Connection	1	4
3	Service record	3	4

Table 1-2 Insulation (m=1) Weights and Maximum CPF

n	Sub-Condition Parameter	$WCPF_n$	$CPF_{n.max}$
1	Oil Quality	4	4
2	Oil DGA	5	4

1.3.1 *Oil Quality*

Table 1-3 Oil Quality Test

Condition Rating	CPF	Description
A	4	Overall factor is less than 1.2
B	3	Overall factor between 1.2 and 1.5
C	2	Overall factor is between 1.5 and 2.0
D	1	Overall factor is between 2.0 and 3.0
E	0	Overall factor is greater than 3.0

Where the Overall factor is the weighted average of the following gas scores:

Table 1-4 Oil Quality Overall Factoring

		Scores				
		1	2	3	4	Weight
Dielectric Str. kV D877		>40	>30	>20	Less than 20	3
IFT* dynes/cm	230 kV $\leq$ U	>32	25-32	20-25	Less than 20	2 *
	69 kV <U< 230	>30	23-30	18-23	Less than 18	
	U $\leq$ 69 kV	>25	20-25	15-20	Less than 15	
Color		Less than 1.5	1.5-2	2-2.5	> 2.5	2
Acid Number*	230 kV $\leq$ U	Less than 0.03	0.03-0.07	0.07-0.1	>0.1	1 *
	69 kV <U< 230	Less than 0.04	0.04-0.1	0.1-0.15	>0.15	
	U $\leq$ 69 kV	Less than 0.05	0.05-0.1	0.1-0.2	>0.2	

* Select the row applicable to the equipment rating

$$\text{Overall Factor} = \frac{\sum Score_i \times Weight_i}{\sum Weight}$$

1.3.2 *Oil Dissolved Gas Analysis (DGA)*

Table 1-5 Transformer DGA

Condition Rating*	CPF	Description
A	4	DGA overall factor is less than 1.2
B	3	DGA overall factor between 1.2 and 1.5
C	2	DGA overall factor is between 1.5 and 2.0
D	1	DGA overall factor is between 2.0 and 3.0
E	0	DGA overall factor is greater than 3.0

*In the case of a score other than A, check the variation rate of DGA parameters. If the maximum variation rate (among all the parameters) is greater than 30% for the latest 3 samplings or 20% for the latest 5 samplings, overall Health Index is multiplied by 0.9 for score B, 0.85 for score C, 0.75 for score D and 0.5 for score E.

Where the DGA overall factor is the weighted average of the following gas scores:

Table 1-6 Oil DGA Overall Factoring

	Scores						
	1	2	3	4	5	6	**Weight**
H2	<=100	<=200	<=300	<=500	<=700	>700	2
CH4(Methane)	<=120	<=150	<=200	<=400	<=600	>600	3
C2H6(Ethane)	<=65	<=100	<=150	<=250	<=500	>500	3
C2H4(Ethylene)	<=50	<=80	<=150	<=250	<=500	>500	3
C2H2(Acetylene)	<=3	<=7	<=35	<=50	<=80	>80	5
CO	<=350	<=700	<=900	<=1100	<=1300	>1300	1
CO2	<=2500	<=3000	<=4000	<=4500	<=5000	>5000	1

$$\text{Overall Factor} = \frac{\sum Score_i \times Weight_i}{\sum Weight}$$

Table 1-7 Sealing & Connection (m=2) Weights and Maximum CPF

n	Sub-Condition Parameter	$WCPF_n$	$CPF_{n.max}$
1	Tank Oil Leak	1	4
2	Conservator Oil Level	1	4

Table 1-8 Service Record (m=3) Weights and Maximum CPF

n	Sub-Condition Parameter	$WCPF_n$	$CPF_{n.max}$
1	Age	1	4

1.3.3 *Age*

Table 1-9 Transformer Age

Condition Rating	CPF	Description
A	4	0-19
B	3	20-29
C	2	30-44
D	1	45-54
E	0	>=55

1.4 Health Index Results

The total population of assets for this category is 23. The Sample Size or total number of assets within the population that have data is 23, which means there was data for each asset.

The year purchased was assumed to the transformers age. There was full data for Oil dissolved gas analysis (DGA). It is recommended that data be collected on moisture ppm, power factor (for winding doble score), as well as collecting data on grounding and IR thermography.

The Health Indexing Result by Unit and Percentage are presented below:

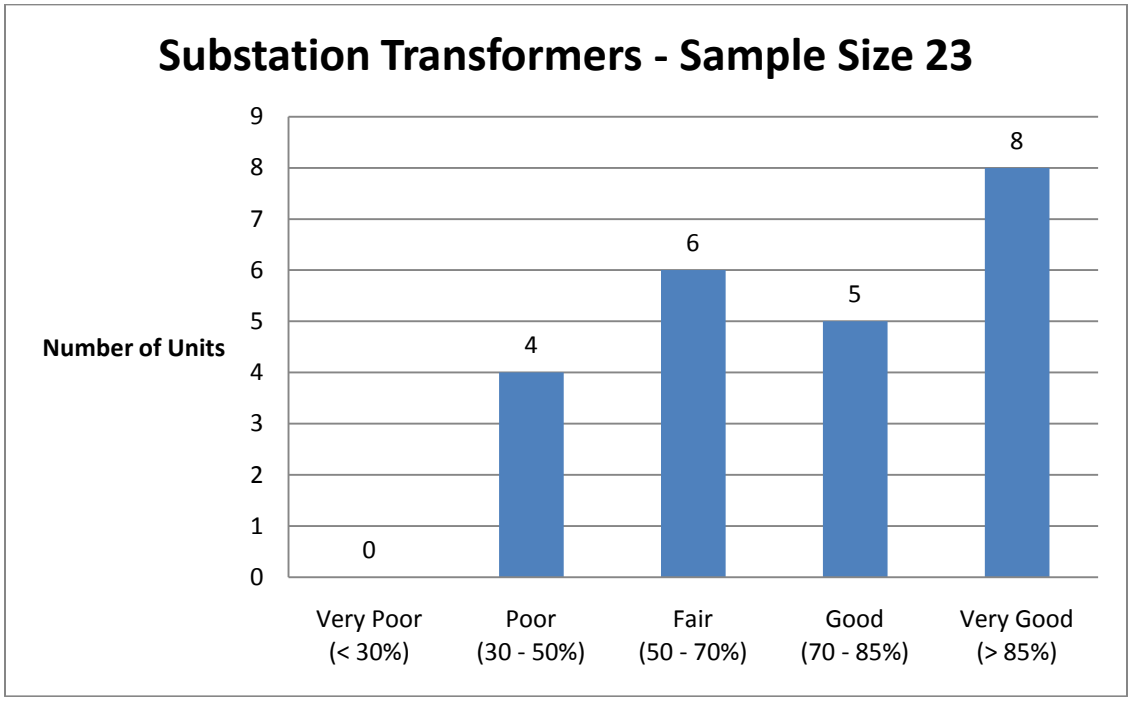


Figure 1-1 Health Index Distribution by Units

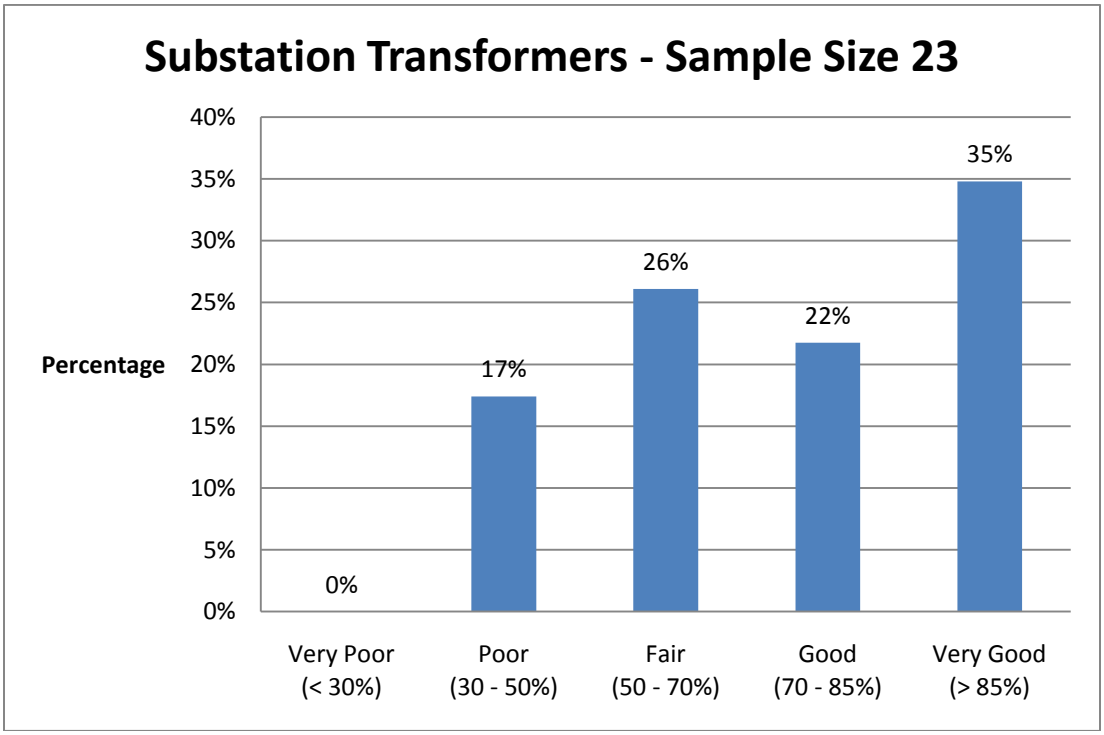


Figure 1-2 Health Index Distribution by Percentage

The exact rating for each Transformer is presented below:

Table 1-10 Substation Health Index Score and Criticality

Transformer No	Substation Name	HI Score	HI Rating	Critical
SD71844-3	SMITHVILLE DS - NF1844	38%	POOR	YES
SD1856-T2	GREEN LANE D.S. - NF 1856	43%	POOR	YES
SD71844-1	SMITHVILLE DS - NF1844	50%	POOR	YES
SD71844-2	SMITHVILLE DS - NF1844	50%	POOR	YES
SD1856-T1	GREEN LANE D.S. - NF 1856	56%	FAIR	YES
800089	VIRGINIA A-144	59%	FAIR	NO
800095	MARGARET A-127	61%	FAIR	YES
800073	ARMOURY A-113	61%	FAIR	NO
800084	ALLENDALE A-175	69%	FAIR	NO
SD1850	CAMPDEN D.S. - NF 1850	69%	FAIR	YES
SD001	STATION ST. D.S.	74%	GOOD	NO
800100	O'NEIL A-148	81%	GOOD	NO
800082	ALLENDALE A-175	81%	GOOD	NO
800295	LEWIS A-119	78%	GOOD	NO
800077	ONTARIO A-115	78%	GOOD	NO

800389	DRUMMOND A-122	86%	VERY GOOD	NO
800052	PARK A-33	86%	VERY GOOD	NO
800054	VIRGINIA A-144	88%	VERY GOOD	NO
2515T2	KALAR TS	93%	VERY GOOD	NO
800388	PEW A-135	93%	VERY GOOD	NO
800053	SWAYZE A-145	100%	VERY GOOD	NO
2515T1	KALAR TS	100%	VERY GOOD	NO
SD1836	JORDAN D.S. - NF 1836	100%	VERY GOOD	YES

1.5 Field Inspection Results

Four Power Transformers were inspected. The data can be found in Section E FIELD INSPECTION FORMS and the summary is shown in Figure 1-3 below. There were no major concerns with the units inspected.

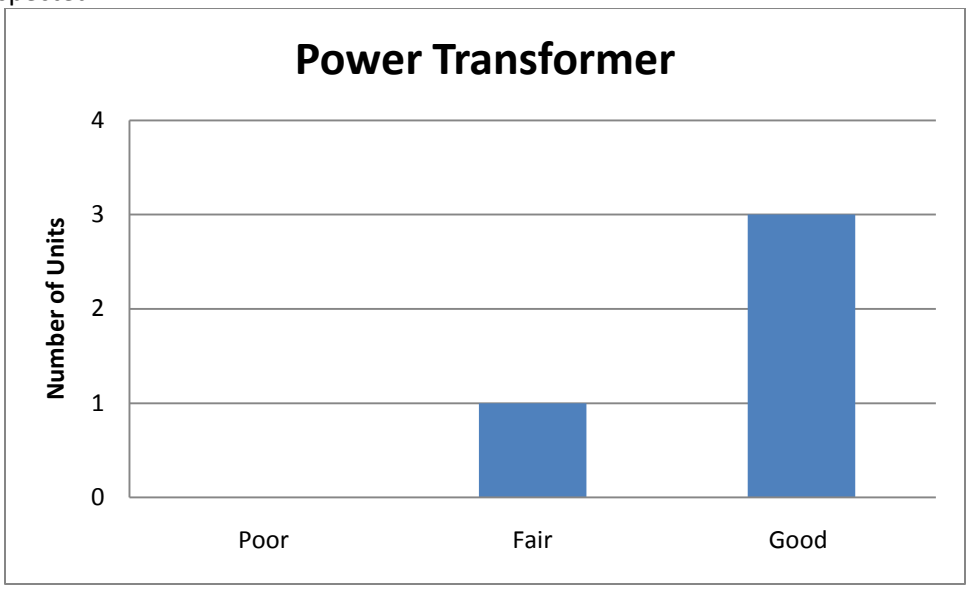


Figure 1-3 Field Inspection Results

1.6 Capital Replacement Plan

For this asset category, the probability of failure curve was assumed such that at the age of 25 years the probability of failure is 10% and at age of 45 years the probability of failure is 90%.

1.6.1 *Optimal Capital Replacement Plan*

Figure 1-4 shows the number of Transformer units that will need to be replaced over the next 20 years for the whole population extrapolated from the results for the sample with adequate condition data. Given the full sample size (100%) the recommendations are for the entire population.

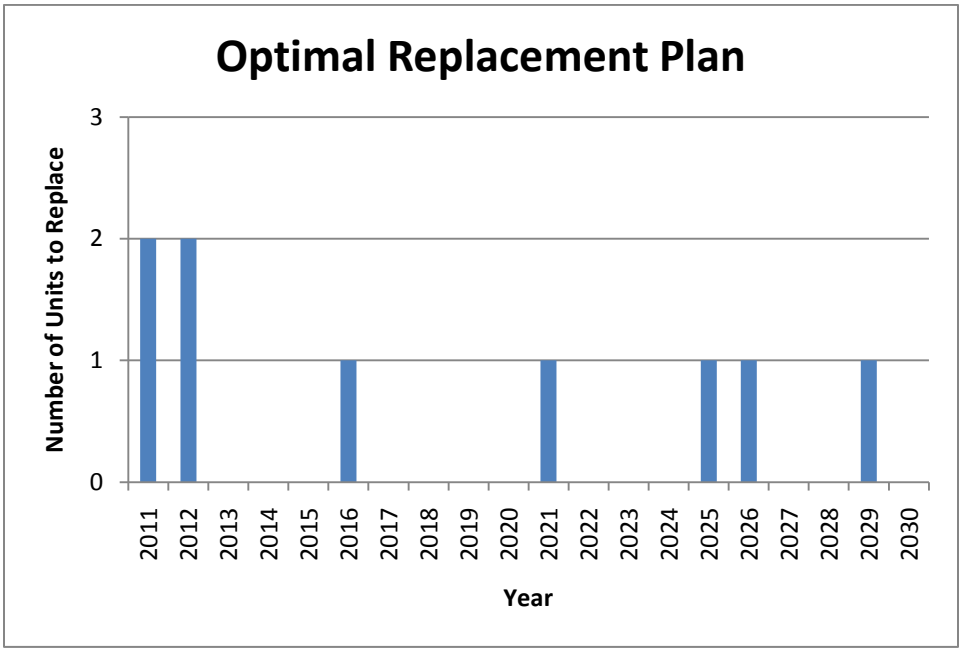


Figure 1-4 Optimal Replacement Plan

1.6.2 *Levelized Capital Replacement Plan*

For this asset category, the optimal replacement plan suggests replacing 2 units in the next year. While this is optimal based on NPEI's Power Transformers HI scores, it may not be ideal financially.

Power Transformers are replaced **proactively**. The Levelized replacement plan allows for Transformers that would optimally be replaced in one year to be replaced over a period of time in the future.

Figure 1-5 shows a Levelized capital replacement plan, where transformer replacements can occur over a longer period of time.

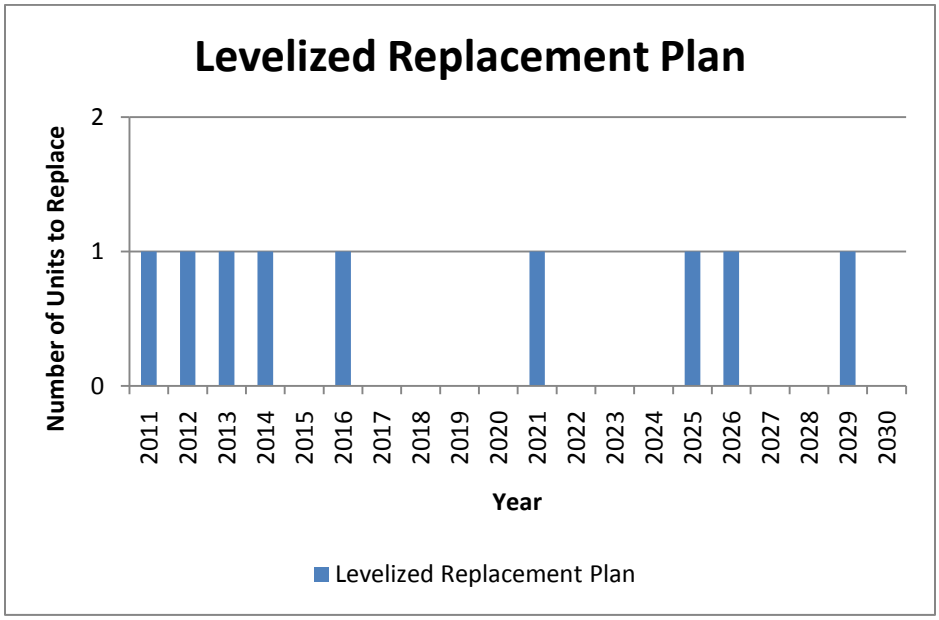


Figure 1-5 Levelized Replacement Plan

1.7 Data Gap Closure

The following table summarizes the data gap for power transformers in this project.

Table 1-11 Data Gap Closure

Sub-system	Condition Parameter	Data Collection Priority
Insulation	Winding Doble	☆☆
Cooling	Temperature	☆☆
Sealing & connection	Grounding	☆
	IR thermography	☆☆☆
Service record	Loading	☆☆

IR thermography is a useful approach in detecting hot spots due to a loose connection or leakage. In this project, it also can address the temperature issue in cooling system as well as the transformer loading status, when the data on those 2 parameters are unavailable.

In the sub-system of insulation, another parameter “oil quality” indirectly addresses the winding insulation deterioration, as it detects on some contents that are the consequence of insulation deterioration (moisture, oxygen due to cellulose degradation).

2 Large Pad Mounted Transformers

Pad Mounted transformers typically employ sealed tank construction and are liquid filled, with mineral insulating oil being the predominant liquid. For the purposes of this report, the pad-mounted transformer has been componentized into the transformer itself and the enclosure. Large Pad Mounted Transformers are Pad Mounted Transformers greater than 700 kVA.

2.1 Degradation Mechanism

It has been demonstrated that the life of the transformer's internal insulation is related to temperature-rise and duration. Therefore, transformer life is affected by electrical loading profiles and length of service life. Other factors such as mechanical damage, exposure to corrosive salts, and voltage and current surges also have a strong effect. Therefore, a combination of condition, age and load based criteria is commonly used to determine the useful remaining life of distribution transformers.

The impacts of loading profiles, load growth, and ambient temperature on asset condition, loss-of-life, and life expectancy can be assessed using methods outlined in ANSI\IEEE Loading Guides. This also provides an initial baseline for the size of transformer that should be selected for a given number and type of customers to obtain optimal life.

Visual inspections provide considerable information on transformer asset condition. Leaks, cracked bushings, and rusting of tanks can all be established by visual inspections. Transformer oil testing can be employed for distribution transformers to assess the condition of solid and liquid insulation.

Distribution transformers sometimes need to be replaced because of customer load growth. A decision is then required whether to keep the transformer as spare or to scrap it. Many utilities make this decision through a cost benefit analysis, by taking into consideration anticipated remaining life of transformer, cost of equivalent sized new transformer, labor cost for transformer replacement and rated losses of the older transformer in comparison to the newer designs.

The following factors are considered in developing the Health Index for distribution transformers:

- Tank corrosion, condition of paint
- Extent of oil leaks
- Condition of bushings
- Condition of padlocks, warning signs etc
- Transformer operating age and winding temperature profile
- Loading profile

The consequences of distribution transformer failure are relatively minor. This is why most utilities run their residential-service distribution transformers to failure. However, larger distribution transformers supplying commercial or industrial customers, where reduction in reliability impacts could be high, may be replaced as they reach near the end of life (EOL) before actual failure. The average transformer life is expected to be approximately 40 years.

2.2 Health Index Formulation

Recommended Health Index Formulations:

$$HI = \frac{\sum_{m=1} \alpha_m (CPS_m \times WCP_m)}{\sum_{m=1} \alpha_m (CPS_{m.\max} \times WCP_m)} \times DF$$

where

$$\mathrm{CPS} = \frac{\sum_{n=1} \beta_n (\mathrm{CPF_n} \times \mathrm{WCPF_n})}{\sum_{n=1} \beta_n (\mathrm{CPF_{n.max}} \times \mathrm{WCPF_n})} \times 4$$

CPS --- Condition Parameter Score
WCP --- Weight of Condition Parameter
DF --- De-rating Factor

CPF --- Sub-Condition Parameter Factor
WCPF --- Weight of Condition Parameter Factor

α_m --- Data availability coefficient for condition parameter (=1 when data available, =0 when data unavailable)
β_n --- Data availability coefficient for condition factor (=1 when data available, =0 when data unavailable)

2.3 Condition and Sub-Condition Parameters

Table 2-1 Condition Weights and Maximum CPS

M	Condition parameter	WCP_m	$CPS_{m.max}$
1	Insulation	4	4
2	Sealing & Connection	1	4
3	Service Record	3	4

Table 2-2 Insulation (m=1) Weights and Maximum CPF

N	Sub-Condition Parameter	$WCPF_n$	$CPF_{n.max}$
1	Oil Quality	4	4
2	Oil DGA	5	4

2.3.1 *Oil Quality*

Table 2-3 Oil Quality Test

Condition Rating	CPF	Description
A	4	Overall factor is less than 1.2
B	3	Overall factor between 1.2 and 1.5
C	2	Overall factor is between 1.5 and 2.0
D	1	Overall factor is between 2.0 and 3.0
E	0	Overall factor is greater than 3.0

Where the Overall factor is the weighted average of the following gas scores:

Table 2-4 Oil Quality Overall Factoring

		Scores				
		1	2	3	4	Weight
Dielectric Str. kV D877		>40	>30	>20	Less than 20	3
IFT* dynes/cm	230 kV $\leq$ U	>32	25-32	20-25	Less than 20	2 *
	69 kV <U< 230	>30	23-30	18-23	Less than 18	
	U $\leq$ 69 kV	>25	20-25	15-20	Less than 15	
Color		Less than 1.5	1.5-2	2-2.5	> 2.5	2
Acid Number*	230 kV $\leq$ U	Less than 0.03	0.03-0.07	0.07-0.1	>0.1	1 *
	69 kV <U< 230	Less than 0.04	0.04-0.1	0.1-0.15	>0.15	
	U $\leq$ 69 kV	Less than 0.05	0.05-0.1	0.1-0.2	>0.2	

* Select the row applicable to the equipment rating

$$\text{Overall Factor} = \frac{\sum Score_i \times Weight_i}{\sum Weight}$$

2.3.2 *Oil Dissolved Gas Analysis (DGA)*

Table 2-5 Transformer DGA

Condition Rating*	CPF	Description
A	4	DGA overall factor is less than 1.2
B	3	DGA overall factor between 1.2 and 1.5
C	2	DGA overall factor is between 1.5 and 2.0
D	1	DGA overall factor is between 2.0 and 3.0
E	0	DGA overall factor is greater than 3.0

*In the case of a score other than A, check the variation rate of DGA parameters. If the maximum variation rate (among all the parameters) is greater than 30% for the latest 3 samplings or 20% for the latest 5 samplings, overall Health Index is multiplied by 0.9 for score B, 0.85 for score C, 0.75 for score D and 0.5 for score E.

Where the DGA overall factor is the weighted average of the following gas scores:

Table 2-6 Oil DGA Overall Factoring

	Scores						
	1	2	3	4	5	6	**Weight**
H2	<=100	<=200	<=300	<=500	<=700	>700	2
CH4(Methane)	<=120	<=150	<=200	<=400	<=600	>600	3
C2H6(Ethane)	<=65	<=100	<=150	<=250	<=500	>500	3
C2H4(Ethylene)	<=50	<=80	<=150	<=250	<=500	>500	3
C2H2(Acetylene)	<=3	<=7	<=35	<=50	<=80	>80	5
CO	<=350	<=700	<=900	<=1100	<=1300	>1300	1
CO2	<=2500	<=3000	<=4000	<=4500	<=5000	>5000	1

$$\text{Overall Factor} = \frac{\sum Score_i \times Weight_i}{\sum Weight}$$

Table 2-7 Sealing & Connection (m=2) Weights and Maximum CPF

N	Sub-Condition Parameter	$WCPF_n$	$CPF_{n.max}$
1	Tank Oil Leak	1	4
2	Conservator Oil Level	1	4

Table 2-8 Service Record (m=3) Weights and Maximum CPF

N	Sub-Condition Parameter	$WCPF_n$	$CPF_{n.max}$
1	Age	1	4

2.3.3 *Age*

The age used was based on the manufacture date on the name plate of the transformer.

Table 2-9 Transformer Age

Condition Rating	CPF	Description
A	4	0-19
B	3	20-29
C	2	30-44
D	1	45-54
E	0	>=55

2.4 Health Index Results

The total population of assets for this category is 56. The Sample Size or total number of assets within the population that have data is 51.

The Health Indexing Result by Unit and Percentage are presented below:

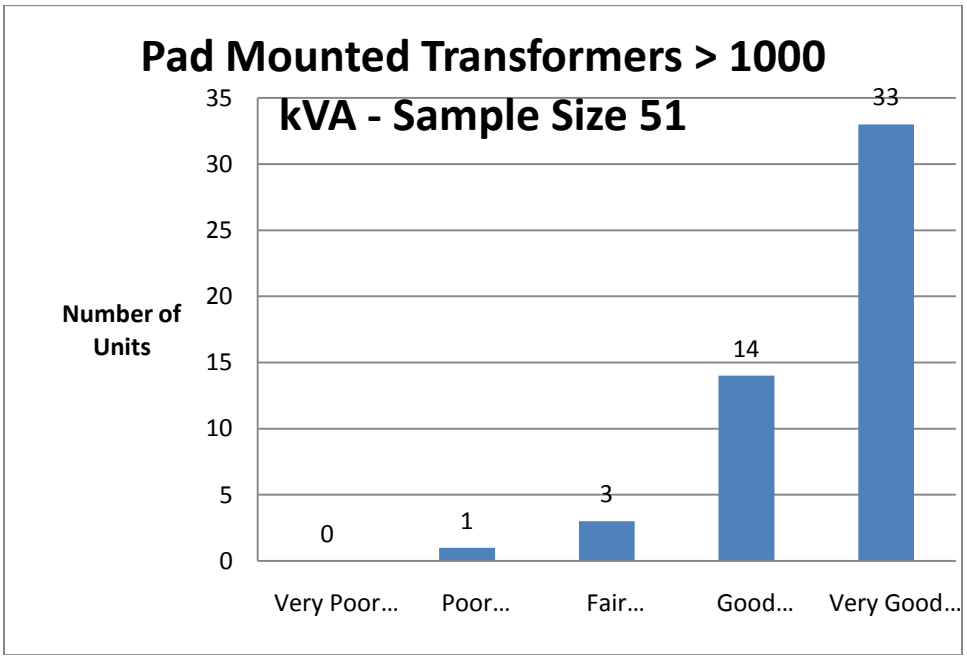


Figure 2-1 Health Index Distribution by Units

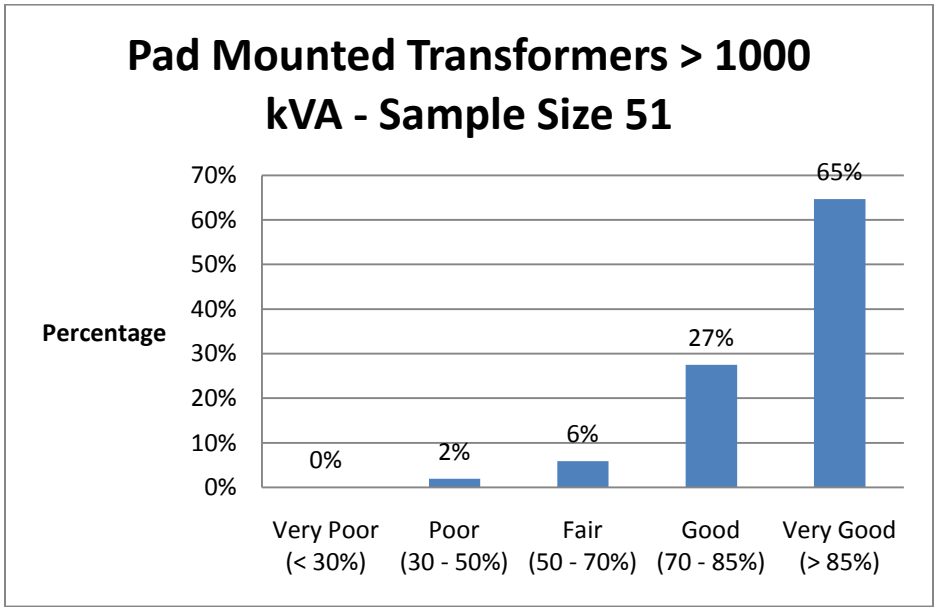


Figure 2-2 Health Index Distribution by Percentage

The exact rating for each Transformer is presented below:

Table 2-10 Pad Mounted Transformer Health Index Score

Transformer No	Substation Name	HI Score	HI Rating
800135		50%	POOR
	SMITHVILLE 85	60%	FAIR
800105		63%	FAIR
732	FROST ROAD	69%	FAIR
2529		75%	GOOD
800515	DOUBLE TREE	75%	GOOD
800109		78%	GOOD
	NO NAMEPLATE	80%	GOOD
800554		81%	GOOD
800129	STATION 52	81%	GOOD
800128	STATION 52	81%	GOOD
800197		81%	GOOD
800148	HEDGSON	81%	GOOD
800127	DAYS INN FALLVIEW	81%	GOOD
800210	MANSIONS OF FOREST GLEN	81%	GOOD
800116	BUCKLEY TOWER	81%	GOOD
800126		84%	GOOD
77045	INDUSTRIAL PARK	86%	VERY GOOD
800526	DAYS INN VICTORIA AVE	86%	VERY GOOD
494	HILLSIDE DRIVE (5050)	86%	VERY GOOD
3040	SOUTH SERVICE RD	88%	VERY GOOD
800413	SUPER 8	90%	VERY GOOD
9201	BARTLETT ROAD (4306)	91%	VERY GOOD
3176	4927 ONTARIO ST.	91%	VERY GOOD
1652	SECOND AVE	93%	VERY GOOD
800568		93%	VERY GOOD
800546	NF COMM CENTRE	93%	VERY GOOD
800587		93%	VERY GOOD
800430	SWAGELOK	100%	VERY GOOD
800465		100%	VERY GOOD
301	4655 BARTLETT	100%	VERY GOOD
546	4927 ONTARIO ST.	100%	VERY GOOD
800550	NIAGARA REGION	100%	VERY GOOD
800601		100%	VERY GOOD
599	ONTARIO ST (SOBEYS)	100%	VERY GOOD
800589		100%	VERY GOOD
73201	PEARSON STREET	100%	VERY GOOD

81	FROST ROAD	100%	VERY GOOD
8099	4758 CHRISTIE ST.	100%	VERY GOOD
629	TWENTY THIRD ST	100%	VERY GOOD
800414	TGI FRIDAYS	100%	VERY GOOD
202	JORDAN ROAD	100%	VERY GOOD
800532		100%	VERY GOOD
800585		100%	VERY GOOD
800443	NPE BUILDING	100%	VERY GOOD
83005	REGIONAL ROAD 20 EAST	100%	VERY GOOD
800586		100%	VERY GOOD
800490	GOLDEN HORSESHOE	100%	VERY GOOD
800584		100%	VERY GOOD
800588		100%	VERY GOOD
99121	NORTH SERVICE RD	NO DATA	
800147	EVENTIDE HOME	NO DATA	
229	DURHAM ROAD	NO DATA	

2.5 Field Inspection Results

Field inspections were only done on Standard Pad Mounted Transformers.

2.6 Capital Replacement Plan

For this asset category, the probability of failure curve was assumed such that at the age of 25 years the probability of failure is 10% and at age of 45 years the probability of failure is 90%.

2.6.1 *Optimal Capital Replacement Plan*

Figure 2-3 shows the number of Transformer units that will need to be replaced over the next 20 years for the whole population extrapolated from the results for the sample with adequate condition data. Given a significant sample size (93%) there is a high degree of confidence that the recommendations for the sample and the whole population are the same.

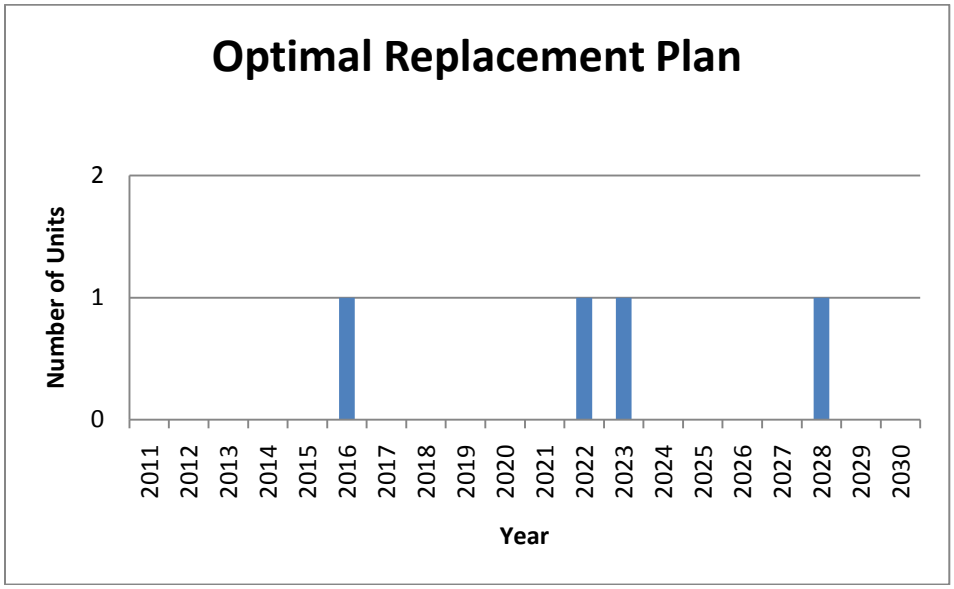


Figure 2-3 Optimal Replacement Plan

2.6.2 *Levelized Capital Replacement Plan*

For this asset category, the optimal replacement plan suggests replacing no units in the next 5 years. There are no peaks in replacement years.

Large Pad Transformers are replaced **proactively**. The Levelized replacement plan allows for Transformers that would optimally be replaced in one year to be replaced over a period of time.

Figure 2-4 shows a Levelized capital replacement plan, where transformer replacements can occur over a longer period of time, it is the same as the optimal replacement plan.

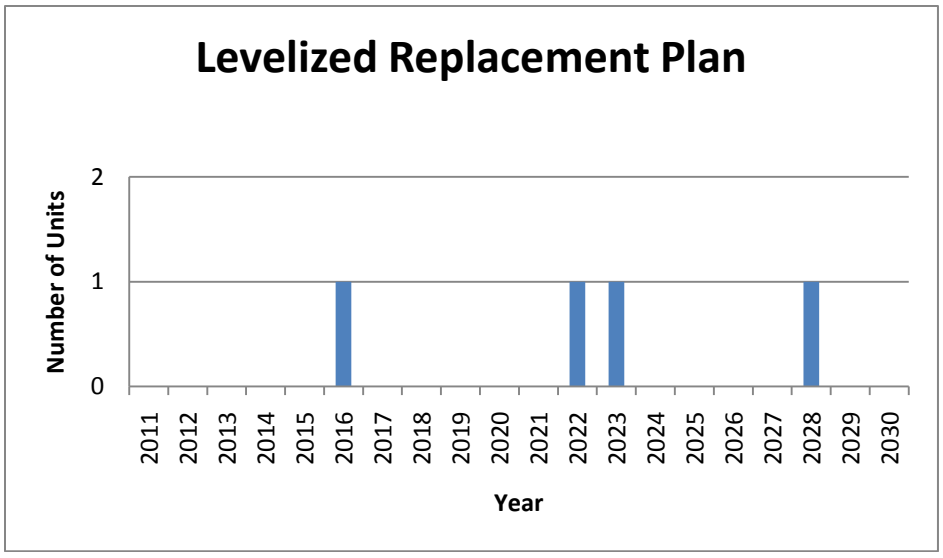


Figure 2-4 Levelized Replacement Plan

2.7 Data Gap Closure

The following table summarizes the data gap for large pad mounted transformers in this project.

Sub-system	Condition	Data Collection Priority
Sealing & connection	Grounding	☆
	IR thermography	☆ ☆ ☆
Service record	Loading	☆ ☆
	Age	☆ ☆

IR thermography is a useful approach in detecting hot spots due to a loose connection or leakage. In this project, it also can address the transformer loading status, when the data on such parameter are unavailable.

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3 Standard Pad-Mounted Transformers

Pad Mounted transformers typically employ sealed tank construction and are liquid filled, with mineral insulating oil being the predominant liquid. For the purposes of this report, the pad-mounted transformer has been componentized into the transformer itself and the enclosure. Standard Pad Mounted Transformers are smaller than 750 kVA.

3.1 Degradation Mechanism

It has been demonstrated that the life of the transformer's internal insulation is related to temperature-rise and duration. Therefore, transformer life is affected by electrical loading profiles and length of service life. Other factors such as mechanical damage, exposure to corrosive salts, and voltage and current surges also have a strong effect. Therefore, a combination of condition, age and load based criteria is commonly used to determine the useful remaining life of distribution transformers.

The impacts of loading profiles, load growth, and ambient temperature on asset condition, loss-of-life, and life expectancy can be assessed using methods outlined in ANSI\IEEE Loading Guides. This also provides an initial baseline for the size of transformer that should be selected for a given number and type of customers to obtain optimal life.

Visual inspections provide considerable information on transformer asset condition. Leaks, cracked bushings, and rusting of tanks can all be established by visual inspections. Transformer oil testing can be employed for distribution transformers to assess the condition of solid and liquid insulation.

Distribution transformers sometimes need to be replaced because of customer load growth. A decision is then required whether to keep the transformer as spare or to scrap it. Many utilities make this decision through a cost benefit analysis, by taking into consideration anticipated remaining life of transformer, cost of equivalent sized new transformer, labor cost for transformer replacement and rated losses of the older transformer in comparison to the newer designs.

The following factors are considered in developing the Health Index for distribution transformers:

- Tank corrosion, condition of paint
- Extent of oil leaks
- Condition of bushings
- Condition of padlocks, warning signs etc
- Transformer operating age and winding temperature profile
- Loading profile

The consequences of distribution transformer failure are relatively minor. This is why most utilities run their residential-service distribution transformers to failure. However, larger distribution transformers supplying commercial or industrial customers, where reduction in reliability impacts could be high, may be replaced as they reach near the end of life (EOL) before actual failure. The average transformer life is expected to be approximately 40 years.

3.2 Health Index Formulation

Recommended Health Index Formulations:

$$HI = \frac{\sum_{m=1} \alpha_m (CPS_m \times WCP_m)}{\sum_{m=1} \alpha_m (CPS_{m.\max} \times WCP_m)}$$

where

$$\mathrm{CPS} = \frac{\sum_{n=1} \beta_n (\mathrm{CPF}_n \times \mathrm{WCPF}_n)}{\sum_{n=1} \beta_n (\mathrm{CPF}_{n.\max} \times \mathrm{WCPF}_n)} \times 4$$

CPS --- Condition Parameter Score
WCP --- Weight of Condition Parameter

CPF --- Sub-Condition Parameter Factor
WCPF --- Weight of Condition Parameter Factor

α_m --- Data availability coefficient for condition parameter (=1 when data available, =0 when data unavailable)
β_n --- Data availability coefficient for condition factor (=1 when data available, =0 when data unavailable)

3.3 Condition and Sub-Condition Parameters

Standard Pad Mounted Transformers that are base type **Collar** are **de-rated** to **30%** of the calculated Health Index Value.

Table 3-1 Condition Weights and Maximum CPS

m	Condition Parameter	WCP_m	$CPS_{m.max}$
1	Physical condition	3	4
2	Connection & insulation	5	4
3	Service record	5	4
4	Testing	10	4

Table 3-2 Physical Condition (m=1) Weights and Maximum CPF

n	Sub-Condition Parameter	$WCPF_n$	$CPF_{n.max}$
1	Access (ok/not ok)	1	4

Table 3-3 Connection & insulation (m=2) Weights and Maximum CPF

n	Sub-Condition Parameter	$WCPF_n$	$CPF_{n.max}$
1	Oil contamination (ok/not ok)	2	4
2	Grounding	1	4
3	Insulator (ok/not ok)	4	4
4	Enclosure	1	4

Table 3-4 Testing (m=3) Weights and Maximum CPF

n	Sub-Condition Parameter	$WCPF_n$	$CPF_{n.max}$
1	IR Scan (Pass/Fail)	1	4
2	Ultra Sound (Pass/Fail)	1	4

3.3.1 *Enclosure*

Table 3-5 Enclosure Rating Score
ENCLOSURE

Condition Rating	CPF	Condition Description
A	4	Good
B	3	Graffiti
C	2	Needs Repainting
D	0	Rusting
E	0	Rusting and Graffiti
F	0	Rusting and Needs Repairs
G	0	Rusting and Needs Repainting

3.3.2 *Grounding*

Table 3-6 Grounding Rating Score
GROUNDING

Condition Rating	CPF	Condition Description
A	4	6
A	4	4
A	4	3
A	4	2
E	0	1
E	0	Other

Table 3-7 Service Record (m=3) Weights and Maximum CPF

N	Sub-Condition Parameter	$WCPF_n$	$CPF_{n.max}$
1	Inspection result	2	4
2	Age	1	4

3.3.3 *Age*

Table 3-8 Age Rating Score

Age		
Condition Rating	**Description**	**CPF**
A	0	4
B	24	3
C	30	2
E	40	0

3.4 Health Index Results

The total population of assets for this category is 2408. The Sample Size or total number of assets within the population that have data other than age is 716.

The Health Indexing Result by Unit and Percentage are presented below for both the population of 716 (age and other data):

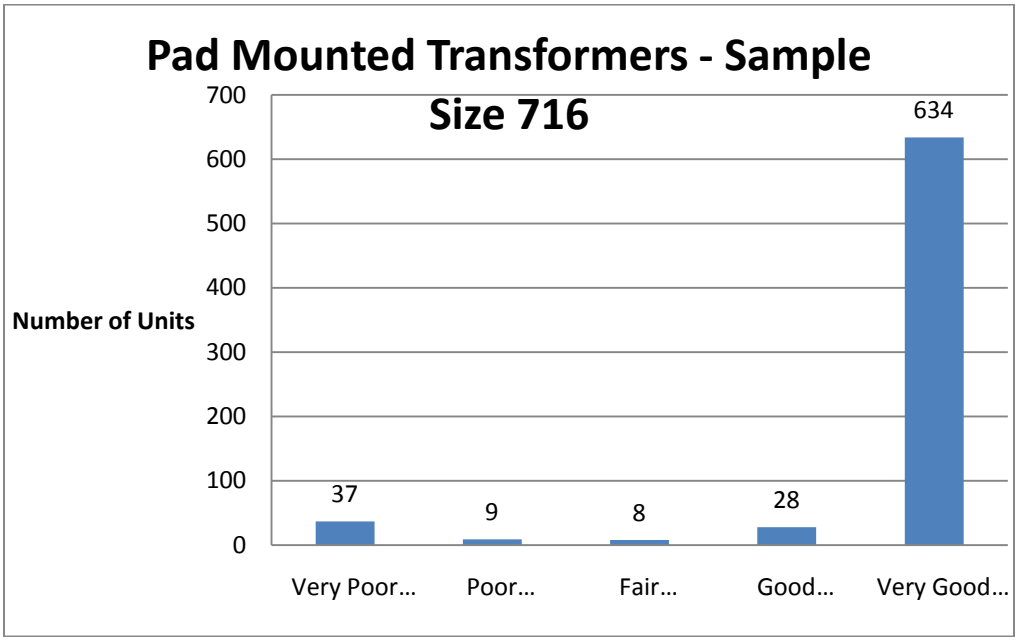


Figure 3-1 Health Index Distribution by Unit

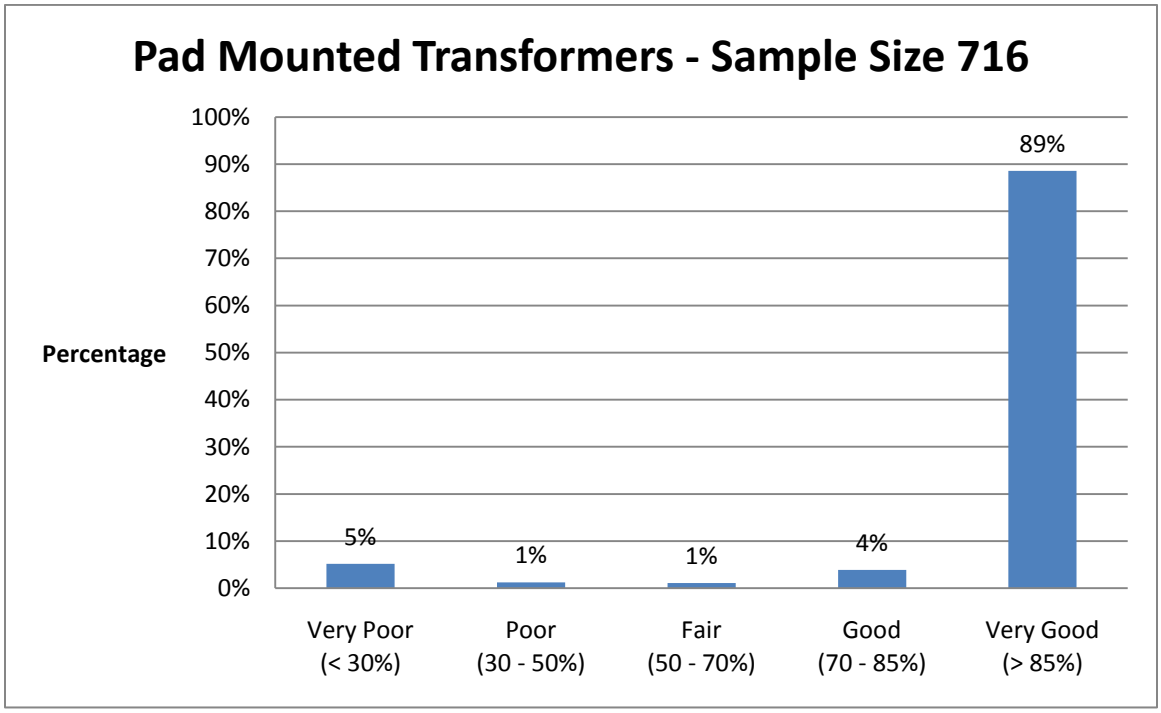


Figure 3-2 Health Index Distribution by Percentage

3.5 Field Inspection Results

Five Standard Pad Mounted Transformers were inspected. The data can be found in Section E FIELD INSPECTION FORMS and the summary is shown in Figure 3-3 below. Most of the units were in good to fair condition. The unit in poor condition was rated this way because of Pad Condition, Main Cabinet Condition and Overall Condition.

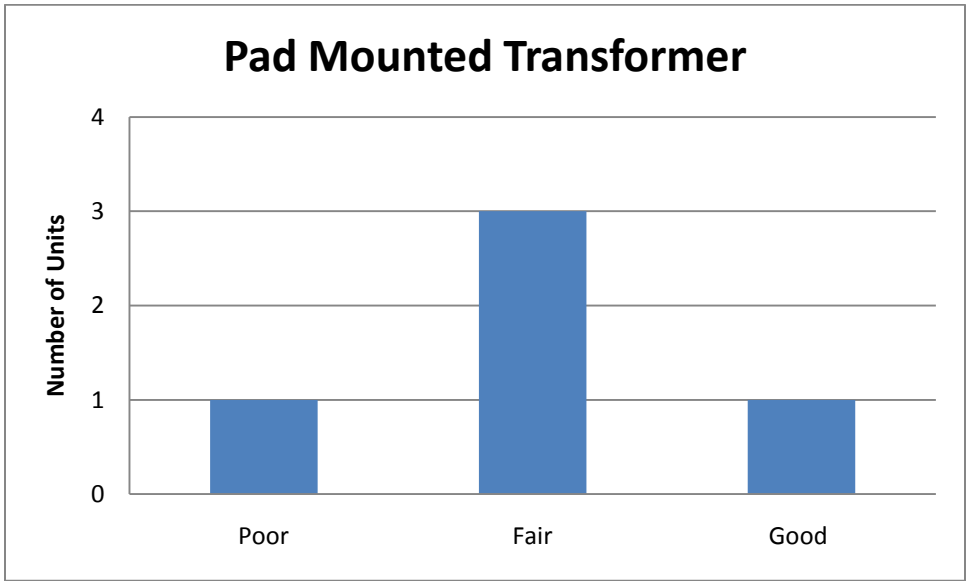


Figure 3-3 Field Inspection Results

The field inspection data indicates a different pattern than the sample case. This may be because only 30% of NPEI's were included in the Health Index sample (716 units) that may not represent NPEI's total population's Health Index.

3.6 Capital Replacement Plan

For this asset category, the probability of failure curve was assumed such that at the age of 25 years the probability of failure is 10% and at age of 45 years the probability of failure is 90%.

3.6.1 *Optimal Replacement Plan*

Figure 3-4 the number of Transformer units that will need to be replaced over the next 20 years. The result was extrapolated from the 28% sample with more than just condition data available to the whole population. Since Health Index distribution based on age alone that was available for the whole population is similar to the sample's Health Index distribution, it appears that the sample was representative of the whole population.

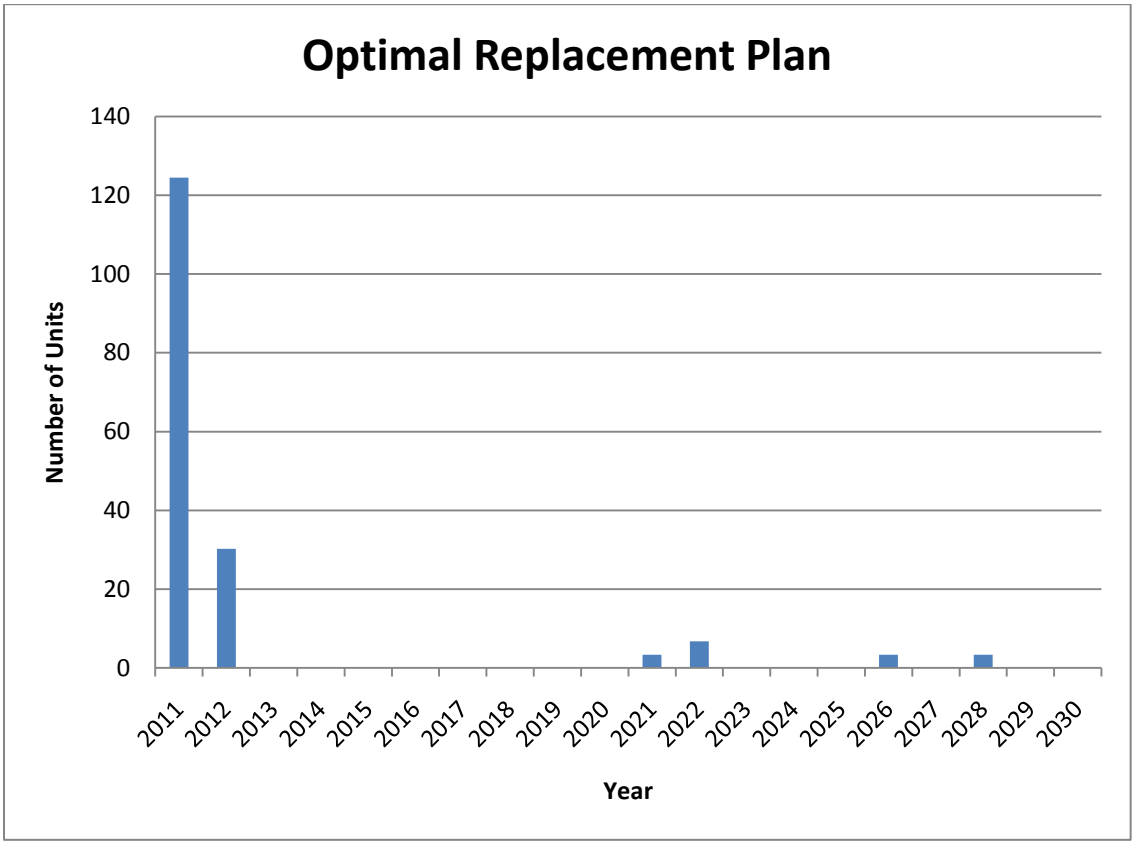


Figure 3-4 Optimal Replacement Plan

3.6.2 *Levelized Capital Replacement Plan*

For this asset category, the optimal replacement plan suggests replacing 124 units in the next year. While this is optimal based on NPEI's Pad Mounted Transformers HI scores, it may not be ideal financially.

Standard Pad Transformers are typically replaced reactively (end of life.) However NPEI is replacing those transformers with collar type bases **proactively**. The Levelized replacement plan allows for Transformers that would optimally be replaced in one year to be replaced over a period of 5 years.

Figure 3-5 shows a Levelized capital replacement plan, where transformer replacements can occur over a longer period of time.

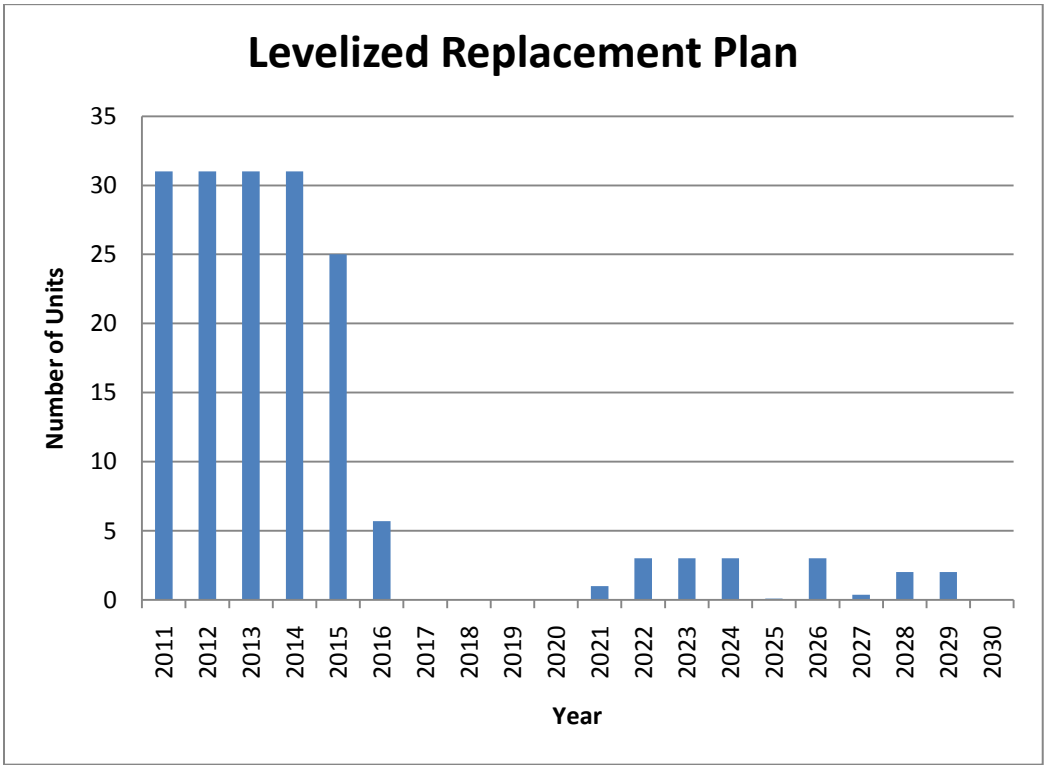


Figure 3-5 Levelized Replacement Plan

3.7 Data Gap Closure

The same information that has been collected for the sample needs to be collected for the remaining population.

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4 Pole-Mounted Transformers

Distribution pole top transformers change sub-transmission or primary distribution voltages to 120/240 V or other common voltages for use in residential and commercial applications.

4.1 Degradation Mechanism

It has been demonstrated that the life of the transformer's internal insulation is related to temperature-rise and duration. Therefore, transformer life is affected by electrical loading profiles and length of service life. Other factors such as mechanical damage, exposure to corrosive salts, and voltage and current surges also have a strong effect. Therefore, a combination of condition, age and load based criteria is commonly used to determine the useful remaining life of distribution transformers.

The impacts of loading profiles, load growth, and ambient temperature on asset condition, loss-of-life, and life expectancy can be assessed using methods outlined in ANSI\IEEE Loading Guides. This also provides an initial baseline for the size of transformer that should be selected for a given number and type of customers to obtain optimal life.

Visual inspections provide considerable information on transformer asset condition. Leaks, cracked bushings, and rusting of tanks can all be established by visual inspections. Transformer oil testing can be employed for distribution transformers to assess the condition of solid and liquid insulation.

Distribution transformers sometimes need to be replaced because of customer load growth. A decision is then required whether to keep the transformer as spare or to scrap it. Many utilities make this decision through a cost benefit analysis, by taking into consideration anticipated remaining life of transformer, cost of equivalent sized new transformer, labor cost for transformer replacement and rated losses of the older transformer in comparison to the newer designs.

The following factors are considered in developing the Health Index for distribution transformers:

- Tank corrosion, condition of paint
- Extent of oil leaks
- Condition of bushings
- Transformer operating age and winding temperature profile
- Loading profile

The consequences of distribution transformer failure are relatively minor. This is why most utilities run their residential-service distribution transformers to failure. However, larger distribution transformers supplying commercial or industrial customers, where reduction in reliability impacts could be high, may be replaced as they reach near the end of life (EOL) before actual failure. The average transformer life is expected to be approximately 40 years.

4.2 Health Index Formulation

Recommended Health Index Formulations:

$$HI = \frac{\sum_{m=1} \alpha_m (CPS_m \times WCP_m)}{\sum_{m=1} \alpha_m (CPS_{m.\max} \times WCP_m)}$$

where

$$\mathrm{CPS} = \frac{\sum_{n=1} \beta_n (\mathrm{CPF_n} \times \mathrm{WCPF_n})}{\sum_{n=1} \beta_n (\mathrm{CPF_{n.max}} \times \mathrm{WCPF_n})} \times 4$$

CPS --- Condition Parameter Score
WCP --- Weight of Condition Parameter

CPF --- Sub-Condition Parameter Factor
WCPF --- Weight of Condition Parameter Factor

α_m --- Data availability coefficient for condition parameter (=1 when data available, =0 when data unavailable)
β_n --- Data availability coefficient for condition factor (=1 when data available, =0 when data unavailable)

4.3 Condition and Sub-Condition Parameters

Table 4-1 Condition Weights and Maximum CPS

m	Condition Parameter	WCP_m	$CPS_{m.max}$
1	Operating Practices	2	4
2	Service record	1	4

Table 4-2 Operating Practices (m=1) Weights and Maximum CPF

n	Sub-Condition Parameter	$WCPF_n$	$CPF_{n.max}$
1	Operating Practices	1	4

4.3.1 *Operating Practices*

Table 4-3 Customer Score Rating

CUSTOMERS		
Condition Rating	**Description**	**CPF**
A	0	4
B	10	3
C	20	2
E	40	0

Table 4-4 Service Record (m=2) Weights and Maximum CPF

N	Sub-Condition Parameter	$WCPF_n$	$CPF_{n.max}$
1	Age	1	4

4.3.2 *Age*

Table 4-5 Age Score Rating

Age		
Condition Rating	**Description**	**CPF**
A	0	4
B	24	3
C	30	2
E	40	0

4.4 Health Index Results

The total population of assets for this category is 6835. The Sample Size or total number of assets within the population that have data is 6711.

The year purchased was assumed to the transformers age. The other condition parameter was the number of customers serviced by the transformer.

The Health Indexing Result by Unit and Percentage are presented below:

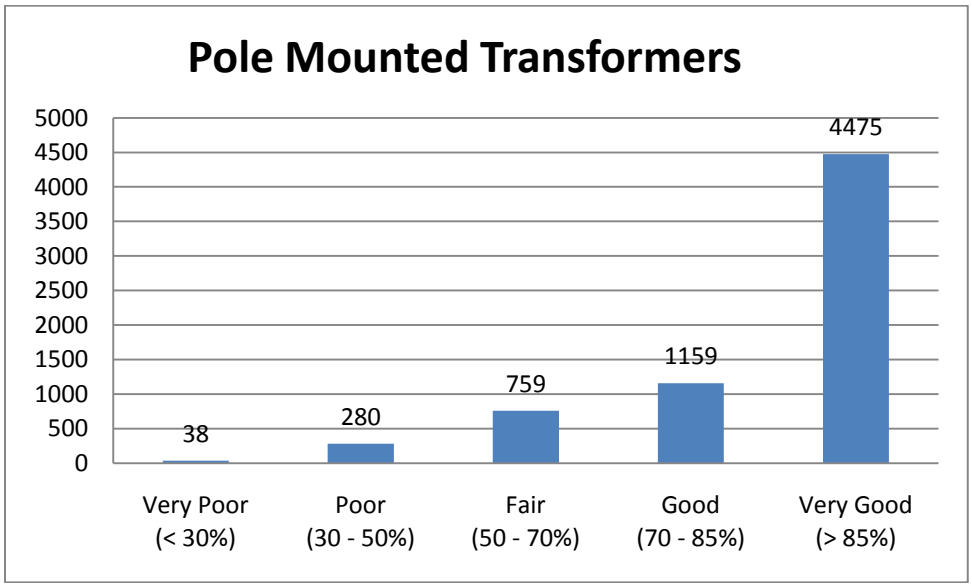


Figure 4-1 Health Index Distribution by Unit

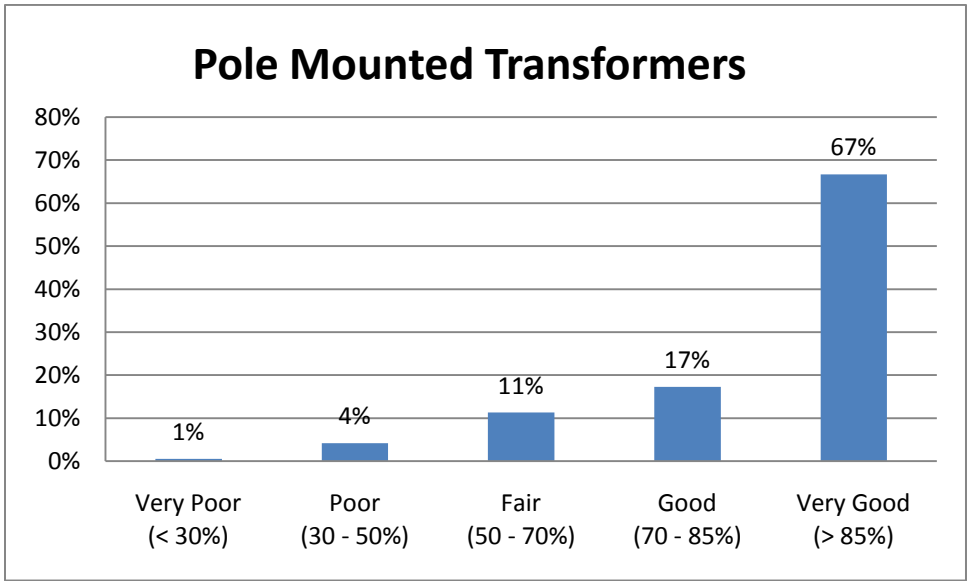


Figure 4-2 Health Index Distribution by Percentage

4.5 Field Inspection Results

Two Pole Mounted Transformers were inspected. The data can be found in Section E FIELD INSPECTION FORMS and are summarized in Figure 4-3 below. The units were in good and fair condition.

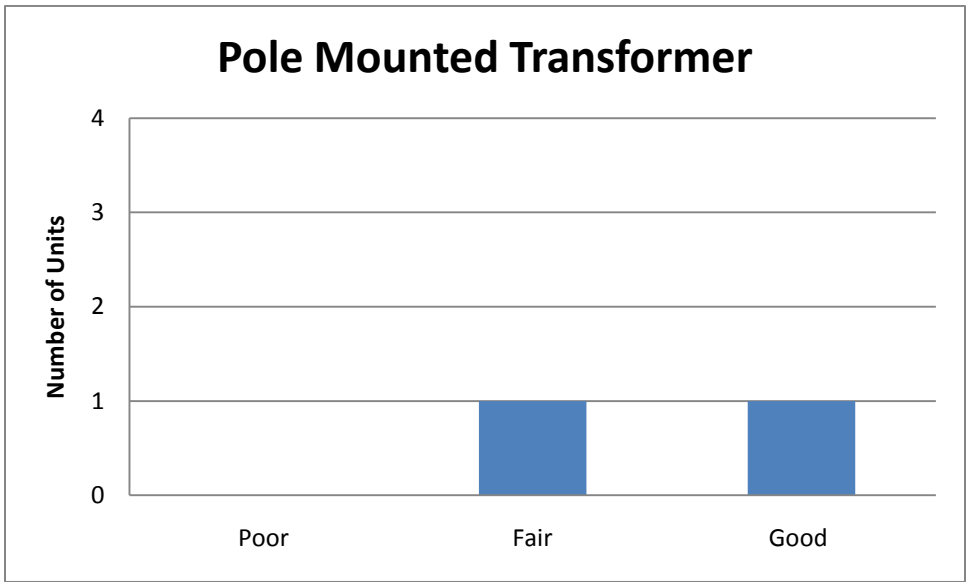


Figure 4-3 Field Inspection Results

4.6 Capital Replacement Plan

For this asset category, the probability of failure curve was assumed such that at the age of 30 years the probability of failure is 10% and at age of 60 years the probability of failure is 90%.

4.6.1 *Optimal Replacement Plan*

Figure 4-4 shows the number of Transformer units that will need to be replaced over the next 20 years for the whole population extrapolated from the results for the sample with adequate condition data. Given a significant sample size (98%) there is a high degree of confidence that the recommendations for the sample and the whole population are the same.

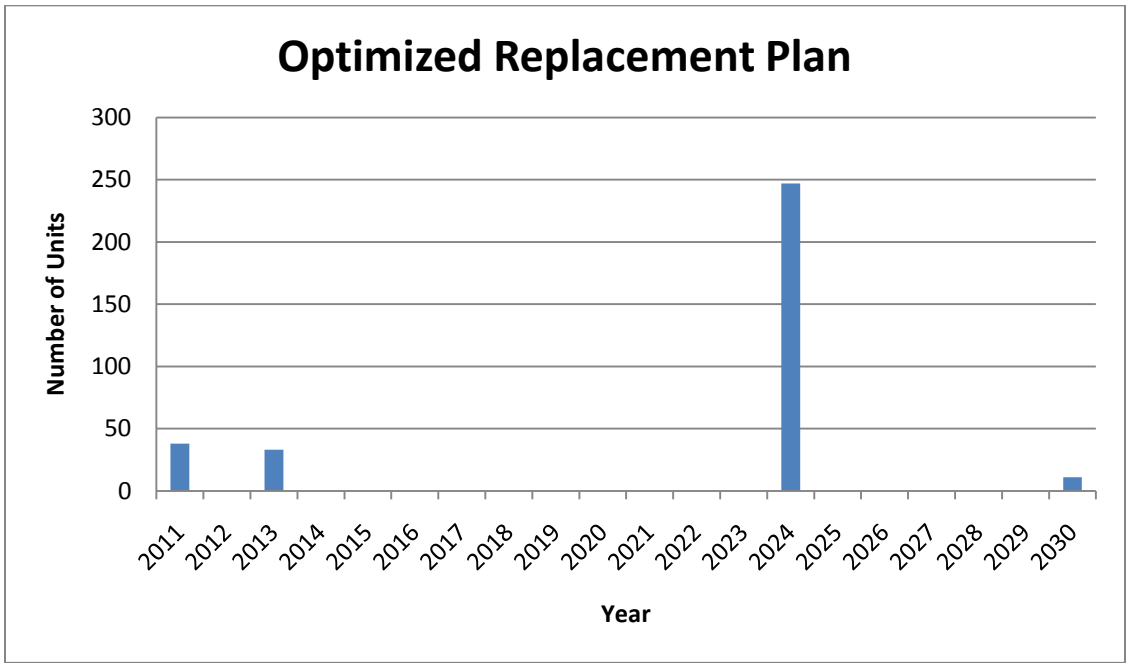


Figure 4-4 Optimal Replacement Plan

4.6.2 *Levelized Capital Replacement Plan*

For this asset category, the optimal replacement plan suggests replacing 247 units in 2024. While this is optimal based on NPEI's Pole Mounted Transformers HI scores, it may not be ideal financially.

Pole Mounted Transformers are typically replaced **reactively** (end of life.) Since the HI scores indicate the majority of failures happening over the next 25 years, NPEI can take a Levelized approach by replacing assets before they are estimated to fail. The Levelized replacement plan allows for Transformers that would optimally be replaced in 2024 year to be replaced over a period of 5 years (2020-2024).

Figure 4-5 shows a Levelized capital replacement plan, where transformer replacements can occur over a longer period of time.

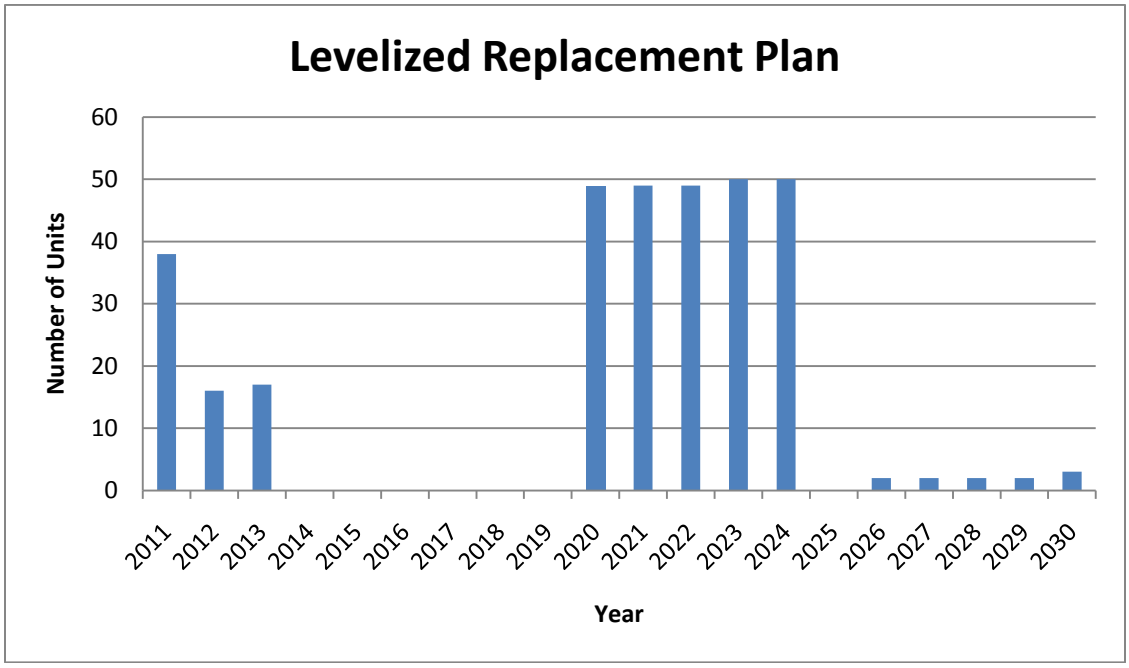


Figure 4-5 Levelized Replacement Plan

4.7 Data Gap Closure

The following table summarizes the data gap for pole mounted transformers in this project.

Sub-system	Condition Parameter	Data Collection Priority
Physical condition	Corrosion	☆☆
Connection & insulation	Oil leak	☆☆
Service record	Loading	☆☆☆

As a pole mounted transformer is a run-to-failure asset, its service record has much impact on its life cycle. While corrosion and oil leak provide visual inspection on the external signs of degradation, its loading history can be used to estimate its actual aging process.

5 Poles

The asset referred to in this category is the fully dressed pole ranging in size from 30 to 75 feet. This includes the pole, cross arm, bracket, insulator, and anchor & guys. The most important component with respect to useful life is the pole itself.

5.1 Degradation Mechanism

As wood is a natural material the degradation processes are somewhat different to those which affect other physical assets on the electricity distribution systems. The critical processes are biological involving naturally occurring fungi that attack and degrade wood, resulting in decay. The nature and severity of the degradation depends both on the type of wood and the environment. Some fungi attack the external surfaces of the pole and some the internal heartwood. Therefore, the mode of degradation can be split into either external rot or internal rot.

As a structural item the sole concern when assessing the condition for a wood pole is the reduction in mechanical strength due to degradation or damage. A particular problem when assessing wood poles is the potentially large variation in their original mechanical properties. Depending on the species the mechanical strength of a new wood pole can vary greatly. Typically the first standard deviation has a width of ±15% for poles nominally in the same class. However in some test programs the minimum measured strength has been as low as 50% of the average.

Assessment techniques start with simple visual inspection of poles. This is often accompanied by basic physical tests, such as prodding tests and hammer tests to detect evidence of internal decay. Over the past 20 years, electricity companies have sought more objective and accurate means of determining condition and estimating remaining life. This has led to the development of a wide range of condition assessment and diagnostic tools and techniques for wood poles. These include techniques that are designed to apply the traditional probing or hammer tests in a more controlled, repeatable and objective manner. Devices are available that measure the resistance of a pin fired into the pole to determine the severity of external rot and instrumented hammers that record and analyze the vibration caused by a hammer blow to identify patterns that indicate the presence of decay. Direct assessment of condition by using a decay resistance drill or an auger to extract a sample through the pole, are also widely used. Indirect techniques, ultrasonic, X-rays, electrical resistance measurement have also been widely used.

There are many factors considered by utilities when establishing condition of wood poles. These include types of wood, historic rates of decay and average lifetimes, environment, perceived effectiveness of available techniques and cost. However, perhaps the most significant is the policy of routine line inspections. A foot patrol of overhead lines undertaken on a regular cycle is extremely effective in addressing the safety and security obligations.

The life expectancy of wood poles ranges from 40 to 80 years, with 60 years being the mean. Consequences of an in-service pole failure are quite serious, as they could lead to a serious accident involving the public. Depending on the number of circuits supported, a pole failure may also lead to a power interruption for a significant number of customers.

5.2 Health Index Formulation

Recommended Health Index Formulations:

$$HI = \frac{\sum_{m=1} \alpha_m (CPS_m \times WCP_m)}{\sum_{m=1} \alpha_m (CPS_{m.\max} \times WCP_m)} \times DF$$

where

$$\mathrm{CPS} = \frac{\sum_{n=1} \beta_n (\mathrm{CPF_n} \times \mathrm{WCPF_n})}{\sum_{n=1} \beta_n (\mathrm{CPF_{n.max}} \times \mathrm{WCPF_n})} \times 4$$

CPS --- Condition Parameter Score
WCP --- Weight of Condition Parameter
DF --- De-rating Factor

CPF --- Sub-Condition Parameter Factor
WCPF --- Weight of Condition Parameter Factor

α_m --- Data availability coefficient for condition parameter (=1 when data available, =0 when data unavailable)
β_n --- Data availability coefficient for condition factor (=1 when data available, =0 when data unavailable)

5.3 Condition and Sub-Condition Parameters

Those Poles that are **Red Cedar Butt Treated** have been **de-rated** to 80% of their calculated Health Index Value.

Table 5-1 Condition Weights and Maximum CPS

m	Condition parameter	WCP_m	$CPS_{m.max}$
1	Pole physical	3	4
2	Pole accessories	1	4
3	Overall	4	4

Table 5-2 Pole Physical (m=2) Weights and Maximum CPF

n	Sub-condition parameter	$WCPF_n$	$CPF_{n.max}$
1	Animal Damage	2	4
2	Lean	1	4
3	Rot / Soft	2	4
4	Crack	2	4
5	Hole / Void	2	4
6	Hollow	2	4
7	Chunk	2	4
8	Damp / Wet	2	4
9	Bend / Hit / Damage	2	4
10	Poor Top	2	4

Table 5-3 Pole Accessory (m=3) Weights and Maximum CPF

N	Sub-condition parameter	CPF lookup table	$WCPF_n$	$CPF_{n.max}$
2	Guy Wire	OK = 4; All others = 0	3	4
3	Defective Ground	OK=4; Exposed/connection issue/rod above grade= 2; Damaged = 0	2	4
4	Crossarm	OK=4; Crooked/Loose = 2; Damaged = 0	1	4
5	Riser (Cable Guard)	OK=4; Exposed/Loose = 2; Damaged = 0	1	4

Table 5-4 Overall (m=4) Weights and Maximum CPF

N	Sub-condition parameter	$WCPF_n$	$CPF_{n.max}$
1	Overall	3	4
3	Age	2	4

5.3.1 *Age*

Table 5-5 Pole Age

Condition Rating	CPF	Condition Description
A	4	0
B	3	10
C	2	25
D	1	40
E	0	>50

5.4 Health Index Results

The total population of assets for this category is 22,247. The Sample Size or total number of assets within the population that have data is 5985. However those pole recently inspected were of newer vintage. Age was provided for 13,135 units (encompassing the 4943 units of the 5985 sample) so a comparison of the age range of the sample, as compared to the 13,135 population was done.

The Health Indexing Result by Unit and Percentage and the age range comparison of the sample to a broader sample of the pole population are presented below:

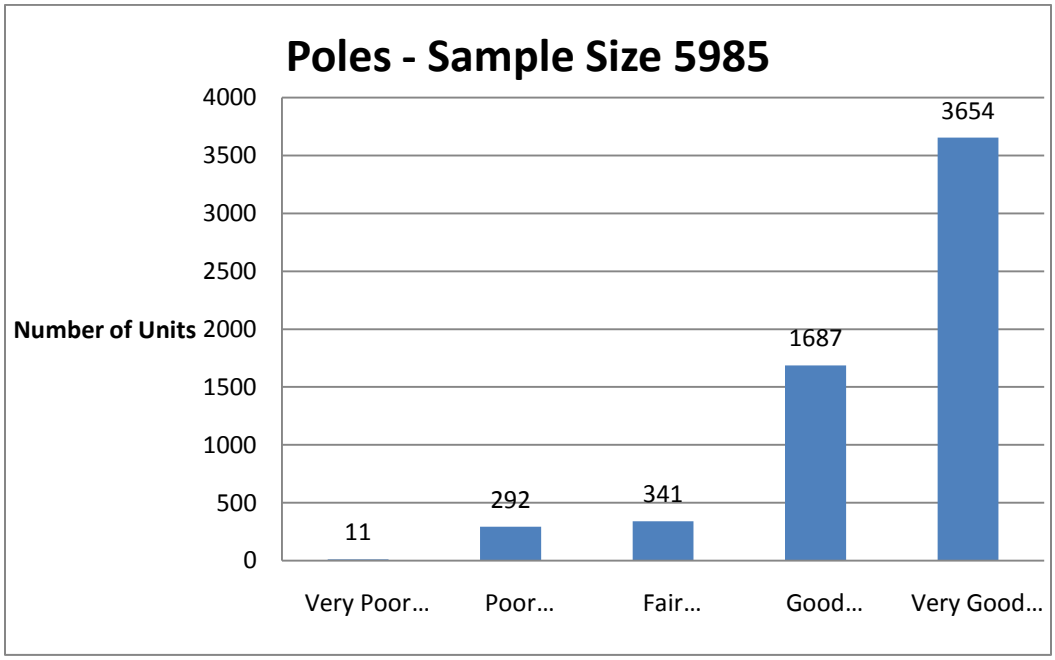


Figure 5-1 Health Index Distribution by Unit

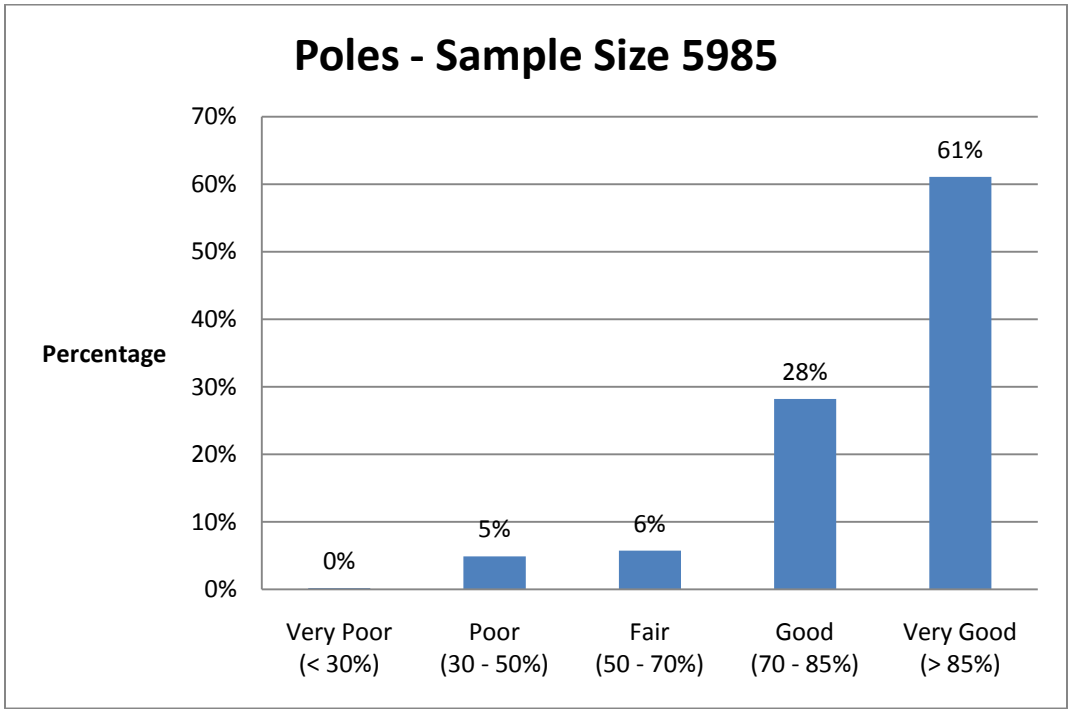


Figure 5-2 Health Index Distribution by Percentage

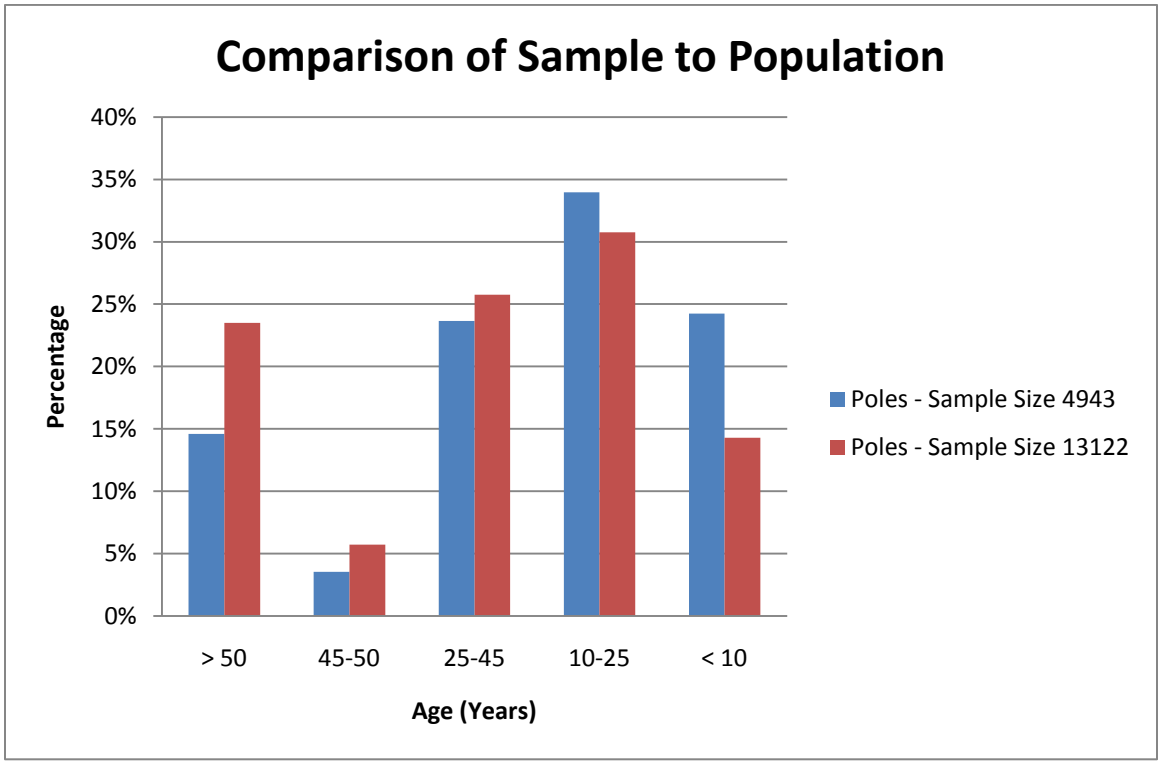


Figure 5-3 Comparison of Sample Age Data to a Larger Sample of the Population Age Data

5.5 Field Inspection Results

Four Poles were inspected. The data can be found in Section E FIELD INSPECTION FORMS and are summarized in Figure 5-4 below. The units were in good and fair condition.

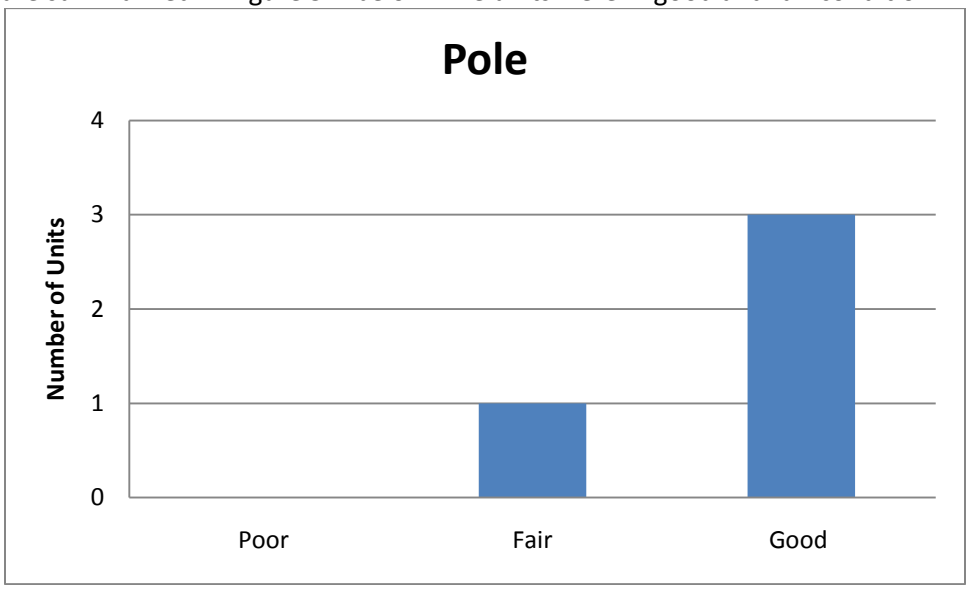


Figure 5-4 Field Inspection Results

5.6 Capital Replacement Plan

For this asset category, the probability of failure curve was assumed such that at the age of 40 years the probability of failure is 10% and at age of 60 years the probability of failure is 90%.

5.6.1 *Optimal Capital Replacement Plan*

Figure 5-5 shows the number of Poles that will need to be replaced over the next 20 years extrapolated for the whole population from the sample (27% of the population) with adequate condition data. However, it could be seen from Figure 5-3 that the overall condition of the poles in the sample is better than that for the population with only age available due to the investments made in testing and replacing poles found to be in poor condition. Therefore, to achieve similar Health Index distribution for the whole population more capital expenditures than what is shown would be required.

A separate analysis which is beyond the scope of this project would be required to estimate the incremental capital amount needed to improve overall condition of the whole pole population to the level of the poles in the sample with adequate condition data.

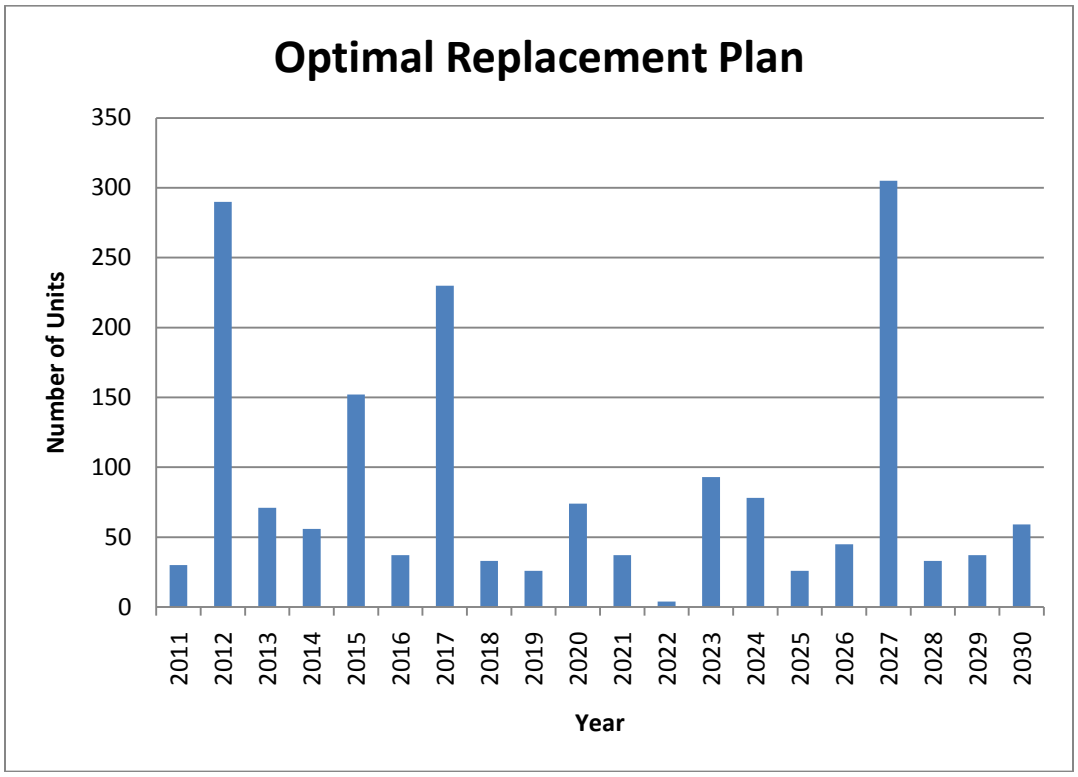


Figure 5-5 Optimal Replacement Plan

5.6.2 *Levelized Capital Replacement Plan*

For this asset category, the optimal replacement plan suggests replacing 30 units next year. While this is optimal based on NPEI's Pole HI scores, it may not be ideal financially.

Poles are typically replaced **reactively** (end of life.) Since the HI scores indicate the majority of failures happening in spikes over the next 30 years, NPEI can take a Levelized approach by replacing assets before they are estimated to fail.

Figure 5-6 shows a Levelized capital replacement plan, where replacements pole can occur over a longer period of time.

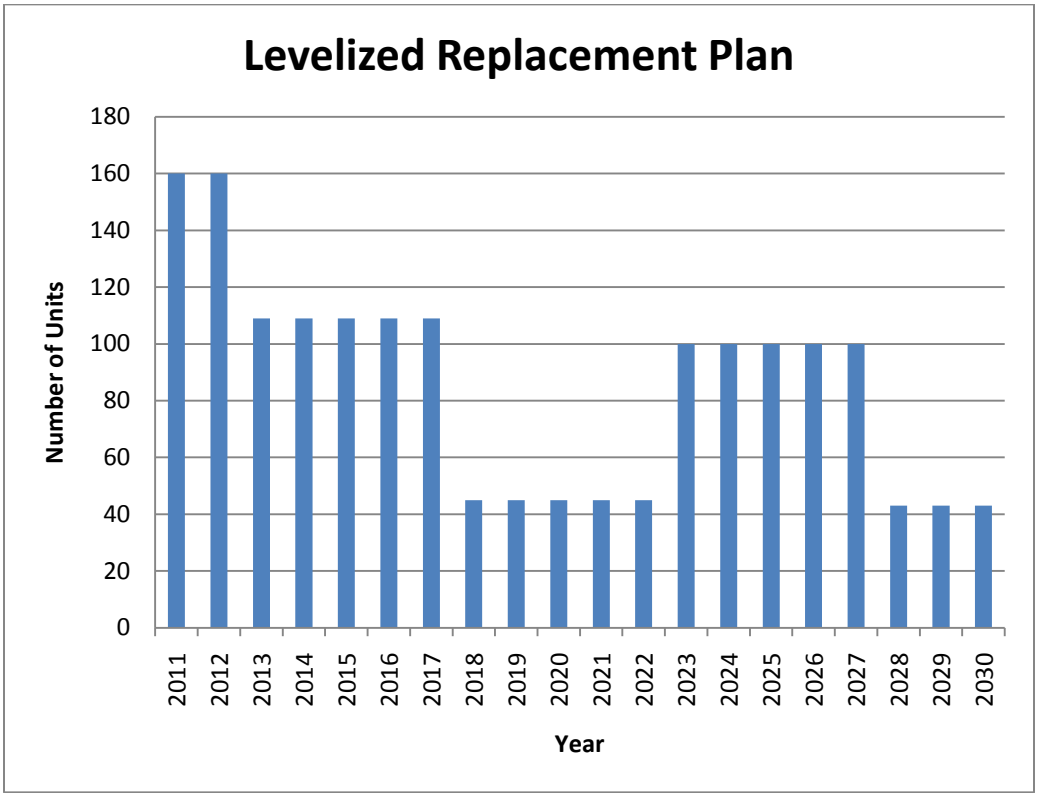


Figure 5-6 Levelized Replacement Plan

5.7 Data Gap Closure

The only data gap for poles in this project is the measured pole strength. It represents the actual physical size changes due to pole degradation. It is useful in scheduling reinforcement or replacement.

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6 Pad Mounted Switchgear

This asset class consists of pad mounted switchgear. The primary function of switches is to allow for isolation of line sections or equipment for maintenance, safety or other operating requirements.

6.1 Degradation Mechanism

The main degradation processes associated with line switches include:

- Corrosion of steel hardware or operating rod
- Mechanical deterioration of linkages
- Switch blades falling out of alignment, which may result in excessive arcing during operation
- Loose connections
- Insulator damage
- Non-functioning padlocks
- Missing ground connections

The rate and severity of these degradation processes depends on a number of inter-related factors including the operating duties and environment in which the equipment is installed. In most cases, corrosion or rust represents a critical degradation process. The rate of deterioration depends heavily on environmental conditions where the equipment operates.

Corrosion typically occurs around the mechanical linkages of these switches. Corrosion can cause seizing. While a lesser mode of degradation, air pollution also can affect support insulators. Typically, this occurs in heavy industrial areas or where road salt is used.

6.2 Formulation

Recommended Health Index Formulations:

$$HI = \frac{\sum_{m=1} \alpha_m (CPS_m \times WCP_m)}{\sum_{m=1} \alpha_m (CPS_{m.\max} \times WCP_m)}$$

where

$$\mathrm{CPS} = \frac{\sum_{n=1} \beta_n (\mathrm{CPF_n} \times \mathrm{WCPF_n})}{\sum_{n=1} \beta_n (\mathrm{CPF_{n.max}} \times \mathrm{WCPF_n})} \times 4$$

CPS --- Condition Parameter Score
WCP --- Weight of Condition Parameter

CPF --- Sub-Condition Parameter Factor

WCPF --- Weight of Condition Parameter Factor

α_m --- Data availability coefficient for condition parameter (=1 when data available, =0 when data unavailable)
β_n --- Data availability coefficient for condition factor (=1 when data available, =0 when data unavailable)

6.3 Condition and Sub-Condition Parameters

Switchgear that is **Air Insulated** and near a **major roadway** is **de-rated** to **30%** of the calculated Health Index Value.

Table 6-1 Condition Weights and Maximum CPS

m	Condition Parameter	WCP_m	$CPS_{m.max}$
1	Physical Condition	3	4
2	Switch Condition	5	4
3	Insulation	7	4
4	Service record	5	4
5	Testing	10	4

Table 6-2 Physical Condition (m=1) Weights and Maximum CPF

n	Sub-Condition Parameter	$WCPF_n$	$CPF_{n.max}$
1	Enclosure	3	4
2	Access (ok/not ok)	1	4
3	Base (ok/not ok)	2	4

Table 6-3 Switch/Fuse Condition (m=2) Weights and Maximum CPF

n	Sub-Condition Parameter	$WCPF_n$	$CPF_{n.max}$
1	Grounding	1	4

Table 6-4 Insulation (m=3) Weights and Maximum CPF

n	Sub-Condition Parameter	$WCPF_n$	$CPF_{n.max}$
1	Insulator (ok/not ok)	1	4

Table 6-5 Service Record (m=4) Weights and Maximum CPF

n	Sub-Condition Parameter	$WCPF_n$	$CPF_{n.max}$
1	Inspection result (Pass/Fail)	1	4

Table 6-6 Tests (m=5) Weights and Maximum CPF

n	Sub-Condition Parameter	$WCPF_n$	$CPF_{n.max}$
1	IR Scan (Pass/Fail)	1	4
2	Ultrasonic (Pass/Fail)	1	4

6.4 Health Index Results

The total population of assets for this category is 89. The Sample Size or total number of assets within the population that have data is 38.

The Health Indexing Result by Unit and Percentage are presented below:

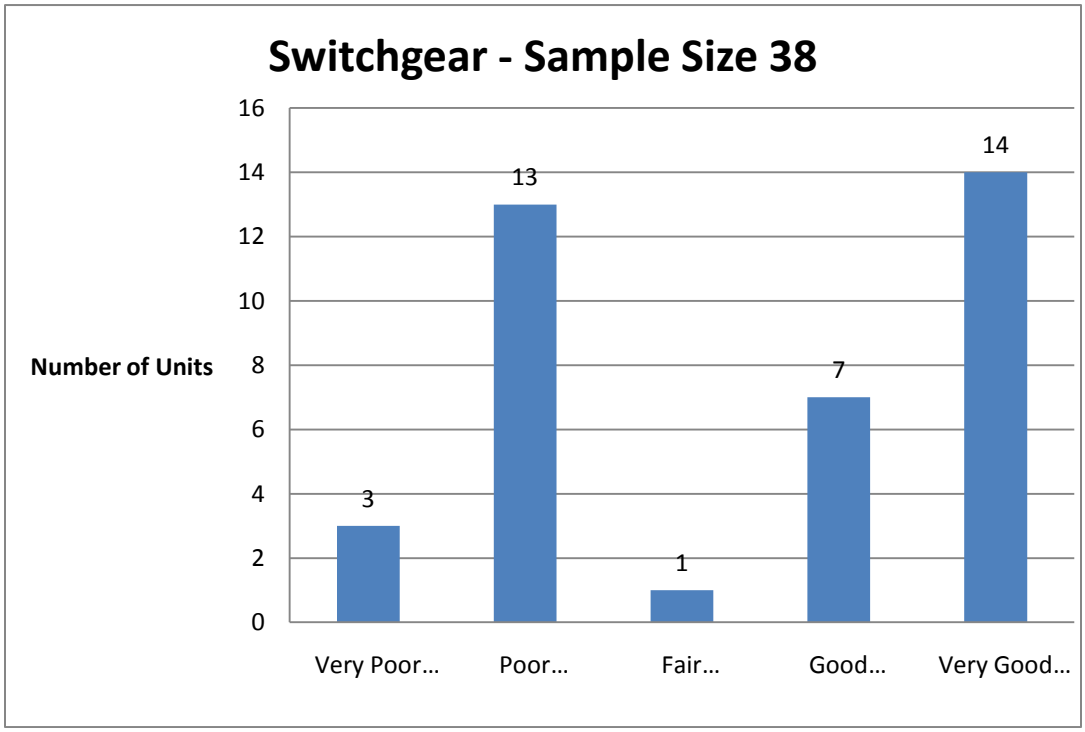


Figure 6-1 Health Index Distribution by Unit

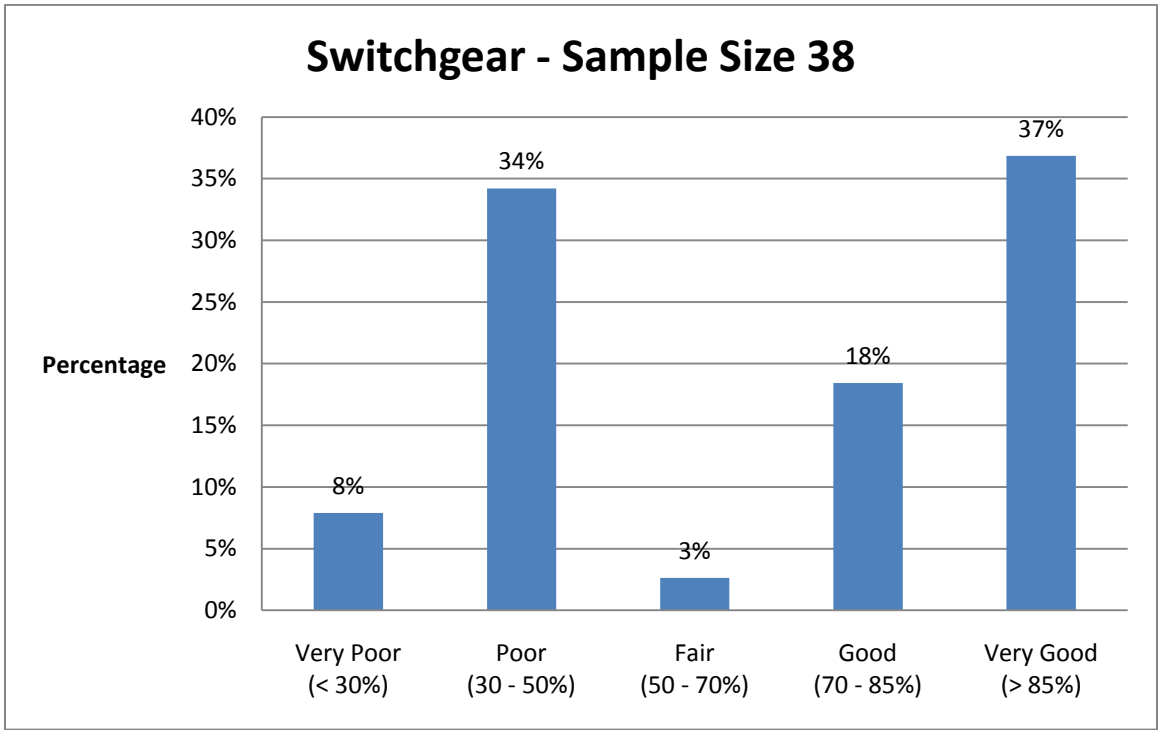


Figure 6-2 Health Index Distribution by Percentage

6.5 Field Inspection Results

On Pad Mounted Switchgear was inspected. The data can be found in Section E FIELD INSPECTION FORMS and are summarized in Figure 6-3 below.

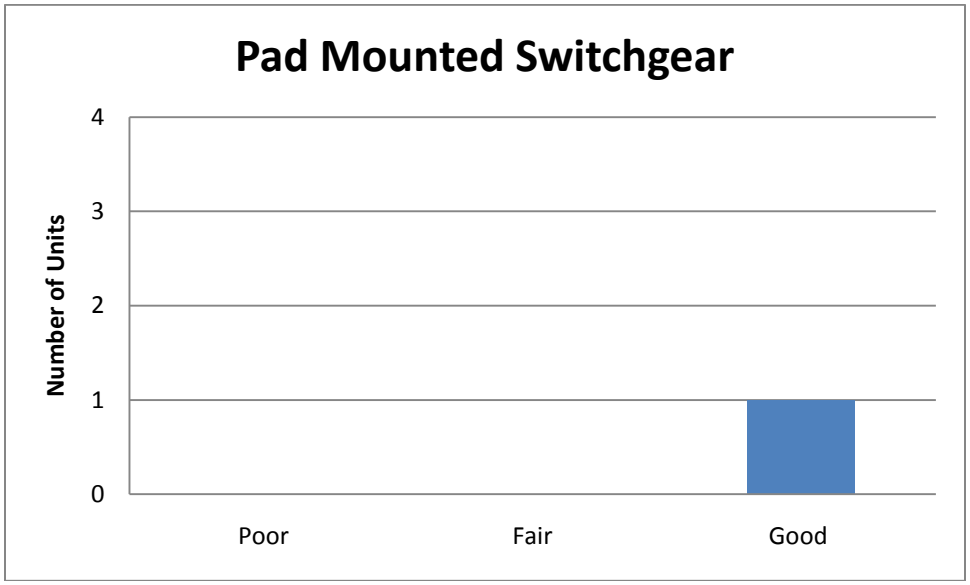


Figure 6-3 Field Inspection Results

6.6 Capital Replacement Plan

For this asset category, the probability of failure curve was assumed such that at the age of 20 years the probability of failure is 10% and at age of 45 years the probability of failure is 90%.

6.6.1 *Optimal Capital Replacement Plan*

Figure 6-4 shows the number of Pad Mounted Switchgear units that will need to be replaced over the next 20 years extrapolated from the sample with adequate condition data (43%). There is no basis to confirm or deny whether this assumption is reasonable, so it is recommended to accelerate a process of collecting condition data for the reminder of the population.

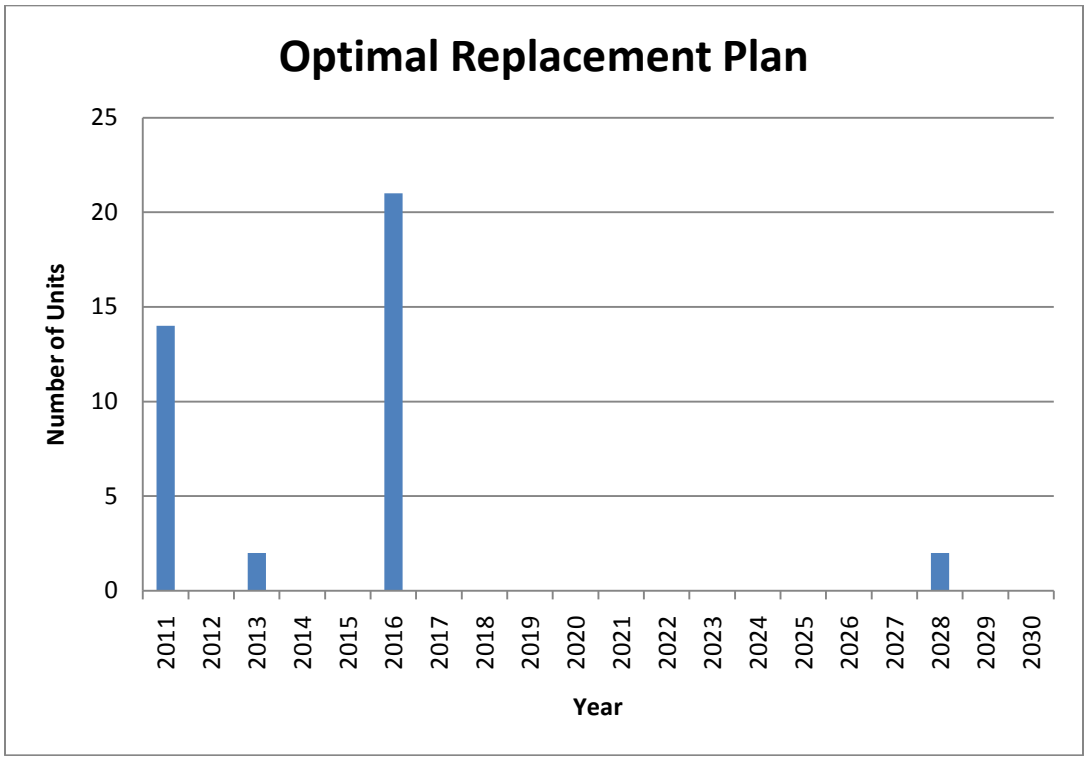


Figure 6-4 Optimal Replacement Plan

6.6.2 *Levelized Capital Replacement Plan*

For this asset category, the optimal replacement plan suggests replacing 14 units next year. While this is optimal based on NPEI's Pad Mounted Switchgear HI scores, it may not be ideal financially.

Standard Pad Transformers are typically replaced reactively (end of life.) However NPEI is replacing those transformers that are air insulated and near a major roadway **proactively**. The Levelized replacement plan allows for Switchgear that would optimally be replaced in one year to be replaced over a period of 5 years.

Figure 6-5 shows a Levelized capital replacement plan, where switchgear replacements can occur over a longer period of time.

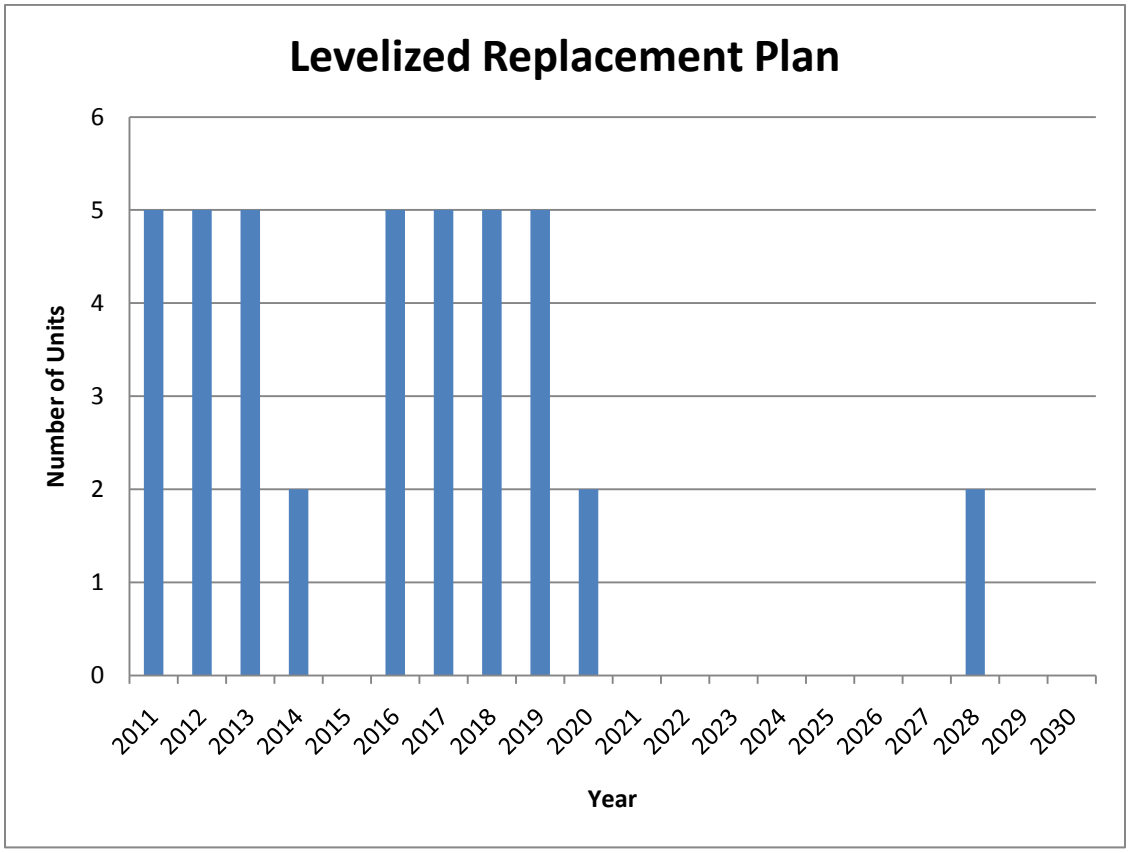


Figure 6-5 Levelized Replacement Plan

6.7 Data Gap Closure

The following table summarizes the data gap for pad mounted switchgear in this project.

Sub-system	Condition Parameter	Data Collection Priority
Physical condition	Debris/dirty	☆
Switch/fuse condition	Switch condition	☆ ☆ ☆
	Arc chute	☆ ☆
Insulation	Barriers	☆ ☆
Service record	Age	☆

Switch main contact and its arc suppression parts are the main device inside pad mounted switchgear.

D CONCLUSIONS AND RECOMMENDATIONS

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Conclusions and Recommendations

1. There was generally sufficient condition data available for Power Transformers, Large Pad-mounted Transformers, Poles (inspected after 2008) and Switchgear.

2. For Pole-mounted transformers, only age is available and operating practices (i.e., customers). Gathering and recording detailed inspection data should be considered.

3. For Standard Pad Mounted transformers, age was provided for 87% of the population however sufficient data was provided for only 28% of the population. It is recommended that NPEI collect data for a greater population of Pad Mounted Transformers.

4. For Poles that have not been inspected, age is only available for half of the population. Sufficient age and inspection data should be collected for the rest of the population.

5. Sufficient data was not available for Underground Cables. It is recommended that inspection and maintenance information be collected for these assets to enable future asset condition assessment.

6. A separate study is required to determine appropriate increase in the pole replacement program over the levels extrapolated from the sample with adequate condition data to achieve the desired overall Health Index distribution (similar to that of the sample).

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E FIELD INSPECTION FORMS

E FIELD INSPECTION FORMS

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Asset Condition Survey
Transformer Stations

Substation	Kalar TS
Op Desn	25 MVA
Age	Built 2004
HV / LV	115kV / 13.8kV
Location	Kalar Rd

	Age	Circle ONLY one
1.0 Power Transformer		
1.1 Inspections		
1.1 Bushing Condition		(A) B C D N U
1.2 Oil Leaks		A B C D (N) U
1.3 Main Tank/Cabinets Condition		(A) B C D N U
1.4 Radiators and Conservator Condition		(A) B C D N U
1.5 Gaskets and Seals Condition		(A) B C D N U
1.6 Pumps and Fans Condition		(A) B C D N U
1.7 Primary Connectors/Conductors Condition		(A) B C D N U
1.8 Secondary Connections/Control Condition		(A) B C D N U
1.9 Foundation/Support Steel/Grounding Condition		(A) B C D N U
1.10 Fire Protection/Spill Containment		(A) B C D N U
1.12 Overall Power Transformer Condition		(A) B C D N U
Tapchangers (if applicable) (On-Load Tap Changers)		
1.13 Tank Condition		(A) B C D N U
1.14 Tank Leaks		(A) B C D (N) U
1.15 Gaskets/Seals/Pressure Relief Condition		(A) B C D N U
1.16 LTC Control and Mechanism Cabinet Condition		(A) B C D N U
1.17 Control and Mechanism Cabinet Components		(A) B C D N U
1.18 Overall Tap Changer Condition		(A) B C D N U
2 Breakers	Voltage Age	
2.1 Bushing Condition		(A) B C D N U
2.2 Tank Condition		(A) B C D N U
2.3 Oil Leaks		A B C D (N) U
2.4 Controls and Mechanism		(A) B C D N U
2.5 Overall Breaker Condition		(A) B C D N U
3 Metal Clad Switch Gear Assemblies	Voltage Age	
3.1 Structure Integrity (paint, corrosion, water leaks)		(A) B C D N U
3.2 General Condition (evidence of maintenance)		(A) B C D N U
3.3 Overall Switchgear Assembly Condition		(A) B C D N U
4 Buildings	Age	
4.1 Condition of structure (roof, walls)		(A) B C D N U
4.2 Condition of doors and locks		(A) B C D N U
4.3 Condition of Lightning		(A) B C D N U
4.4 Overall Building Condition		(A) B C D N U

Data sources used

Mtce inspection record ☐ Interviews ☐ Photos taken (no.)

Inspector Name and Date — Name: G. Ebanks — Date: Nov. 18, 2010

(write any comments or concerns on the back of this form)

6/8/2009 Survey Form-1/1 Transformer Stations VI Form.xls

Asset Condition Survey
Transformer Stations

Substation: Station 17
Op Desn: 5000 kVA
Age: 1974 (1994 Tx)
HV / LV: 13.8kV
Location: Virginia Rd Station 17

		Circle ONLY one
1.0 Power Transformer	Age	
1.1 Inspections		
1.1 Bushing Condition		A B C D N U
1.2 Oil Leaks		A B C D N U
1.3 Main Tank/Cabinets Condition		A B C D N U
1.4 Radiators and Conservator Condition		A B C D N U
1.5 Gaskets and Seals Condition		A B C D N U
1.6 Pumps and Fans Condition		A B C D N U
1.7 Primary Connectors/Conductors Condition		A B C D N U
1.8 Secondary Connections/Control Condition		A B C D N U
1.9 Foundation/Support Steel/Grounding Condition		A B C D N U
1.10 Fire Protection/Spill Containment		A B C D N U
1.12 Overall Power Transformer Condition		A B C D N U
Tapchangers (if applicable)		
1.13 Tank Condition		A B C D N U
1.14 Tank Leaks		A B C D N U
1.15 Gaskets/Seals/Pressure Relief Condition		A B C D N U
1.16 LTC Control and Mechanism Cabinet Condition		A B C D N U
1.17 Control and Mechanism Cabinet Components		A B C D N U
1.18 Overall Tap Changer Condition		A B C D N U
2 Breakers	Voltage	
	Age	
2.1 Bushing Condition		A B C D N U
2.2 Tank Condition		A B C D N U
2.3 Oil Leaks		A B C D N U
2.4 Controls and Mechanism		A B C D N U
2.5 Overall Breaker Condition		A B C D N U
3 Metal Clad Switch Gear Assemblies	Voltage	
	Age	
3.1 Structure Integrity (paint, corrosion, water leaks)		A B C D N U
3.2 General Condition (evidence of maintenance)		A B C D N U
3.3 Overall Switchgear Assembly Condition		A B C D N U
4 Buildings (Newer)	Age	
4.1 Condition of structure (roof, walls)		A B C D N U
4.2 Condition of doors and locks		A B C D N U
4.3 Condition of Lightning		A B C D N U
4.4 Overall Building Condition		A B C D N U

Data sources used

Miss inspection record ☐ Interviews ☐ Photos taken (no.)

Inspector Name and Date — Name: G. Dankewich — Date: Nov. 18, 2010

(write any comments or concerns on the back of this form)

Asset Condition Survey
Transformer Stations

Substation: Pelham Station
Op Data:
Age: 6 mos Refurbish
HV / LV: 27.6kV / 4.16kV
Location: Foothill

	Age	Circle ONLY one
1.0 Power Transformer		
1.1 Inspections		
1.1 Bushing Condition		(A) B C D N U
1.2 Oil Leaks		A B C D (N) U
1.3 Main Tank/Cabinets Condition		(A) B C D N U
1.4 Radiators and Conservator Condition		A (B) C D N U
1.5 Gaskets and Seals Condition		(A) B C D N U
1.6 Pumps and Fans Condition		(A) B C D N U
1.7 Primary Connectors/Conductors Condition		A (B) C D N U
1.8 Secondary Connections/Control Condition		(A) B C D N U
1.9 Foundation/Support Steel/Grounding Condition		(A) B C D N U
1.10 Fire Protection/Spill Containment		(A) B C D N U
1.12 Overall Power Transformer Condition		(A) B C D N U
Tapchangers (If applicable)		
1.13 Tank Condition		A B C D N U
1.14 Tank Leaks		A B C D N U
1.15 Gaskets/Seals/Pressure Relief Condition		A B C D N U
1.16 LTC Control and Mechanism Cabinet Condition		A B C D N U
1.17 Control and Mechanism Cabinet Components		A B C D N U
1.18 Overall Tap Changer Condition		A B C D N U
2 Breakers	Voltage Age	
2.1 Bushing Condition		A B C D N U
2.2 Tank Condition		A B C D N U
2.3 Oil Leaks		A B C D N U
2.4 Controls and Mechanism		A B C D N U
2.5 Overall Breaker Condition		A B C D N U
3 Metal Clad Switch Gear Assemblies	Voltage Age	
3.1 Structure Integrity (paint, corrosion, water leaks)		A B C D N U
3.2 General Condition (evidence of maintenance)		A B C D N U
3.3 Overall Switchgear Assembly Condition		A B C D N U
4 Buildings	Age	
4.1 Condition of structure (roof, walls)		A B C D N U
4.2 Condition of doors and locks		A B C D N U
4.3 Condition of Lightning		A B C D N U
4.4 Overall Building Condition		A B C D N U

Data sources used

Mtce inspection record ☐ Interviews ☐ Photos taken (no.)

Name: G. Bordages

Inspector Name and Date: Nov. 18, 2010

(write any comments or concerns on the back of this form)

Asset Condition Survey
Transformer Stations

Substation	Station 10
Op Data	5 MVA
Age	April 1996
HV / LV	13.8 kV / 4160 240
Location	

1.0 Power Transformer — Age

Circle ONLY one

1.1 Inspections

1.1 Bushing Condition	(A) B C D N U
1.2 Oil Leaks	A B C D (N) U
1.3 Main Tank/Cabinets Condition	(A) B C D N U
1.4 Radiators and Conservator Condition	(A) B C D N U
1.5 Gaskets and Seals Condition	(A) B C D N U
1.6 Pumps and Fans Condition	(A) B C D N U
1.7 Primary Connectors/Conductors Condition	(A) B C D N U
1.8 Secondary Connections/Control Condition	(A) B C D N U
1.9 Foundation/Support Steel/Grounding Condition	(A) B C D N U
1.10 Fire Protection/Spill Containment	A B C D N U
1.12 Overall Power Transformer Condition	(A) B C D N U

Tapchangers (if applicable) Off-Load.

1.13 Tank Condition	(A) B C D N U
1.14 Tank Leaks	A B C D (N) U
1.15 Gaskets/Seals/Pressure Relief Condition	A (B) C D N U
1.16 LTC Control and Mechanism Cabinet Condition	A (B) C D N U
1.17 Control and Mechanism Cabinet Components	(A) B C D N U
1.18 Overall Tap Changer Condition	A (B) C D N U

2 Breakers — Hydraulic SF6 Outside — Voltage / Age

2.1 Bushing Condition	A (B) C D N U
2.2 Tank Condition	A (B) C D N U
2.3 Oil Leaks	A (B) C D N U
2.4 Controls and Mechanism	A (B) C D N U
2.5 Overall Breaker Condition	A (B) C D N U

3 Metal Clad Switch Gear Assemblies — Voltage / Age: 1960's

3.1 Structure Integrity (paint, corrosion, water leaks)	A (B) C D N U
3.2 General Condition (evidence of maintenance)	A (B) C D N U
3.3 Overall Switchgear Assembly Condition	A (B) C D N U

4 Buildings — Age

4.1 Condition of structure (roof, walls)	A (B) C D N U
4.2 Condition of doors and locks	(A) B C D N U
4.3 Condition of Lightning	(A) B C D N U
4.4 Overall Building Condition	(A) B C D N U

Data sources used

Mtce inspection record ☐ Interviews ☐ Photos taken (no.)

Inspector Name and Date — Name: G. Ebersbach — Date: Nov. 18, 2010

(write any comments or concerns on the back of this form)

Asset Condition Survey
Underground Distribution

Substation	
Op Desn	
Age	10 yrs
Voltage	13.8 kv.
Location	Kalar TS / Beaver Bk Rd

1.0 Pad Mounted Switchgear

	Circle ONLY one
1.1 Main Cabinet Condition	A B C D N U
1.2 Pad Condition	A B C D N U
1.3 Insulators Condition	A B C D N U
1.4 Contact Condition	A B C D N U
1.5 Operating Mechanism Condition	A B C D N U
1.6 Electrical Connections Condition	A B C D N U
1.7 Signs of Over Heating?	A B C D N U
1.7 Overall Condition	A B C D N U

Cables and Terminations

1.8 Cable Condition	A B C D N U
1.9 Termination Condition	A B C D N U
1.1 Neutral Condition	A B C D N U
1.11 Overall Cable Condition	A B C D N U

2 Pad Mounted Transformer Location # 800561 150KVA

2.1 Main Cabinet Condition	(A) B C D N U
2.2 Pad Condition	(A) B C D N U
2.3 Oil Leaks	A B C D (N) U
2.4 Operating Temperature	A B C D N (U)
2.5 Overall Transformer Condition	(A) B C D N U

Cables and Terminations

2..5 Cable Condition	A B C D N U
2.6 Termination Condition	A B C D N U
2.7 Neutral Condition	A B C D N U
2.8 Overall Cable Condition	A B C D N U

Data sources used

Mtce inspection record ☐ Interviews ☐ Photos taken (no.) [redacted]

Inspector Name and Date — Name: G. Ebersberger — Date: Nov. 18, 2010

(write any comments or concerns on the back of this form)

Asset Condition Survey
Underground Distribution

Substation
Op Desn
Age
Voltage: 16 KV . 1Ø 75KVA
Location: Various - Nanola St W. of Victoria Ave (off Hwy 8)

1.0 Pad Mounted Switchgear

Circle ONLY one

1.1 Main Cabinet Condition	A B C D N U
1.2 Pad Condition	A B C D N U
1.3 Insulators Condition	A B C D N U
1.4 Contact Condition	A B C D N U
1.5 Operating Mechanism Condition	A B C D N U
1.6 Electrical Connections Condition	A B C D N U
1.7 Signs of Over Heating?	A B C D N U
1.7 Overall Condition	A B C D N U

Cables and Terminations

1.8 Cable Condition	A B C D N U
1.9 Termination Condition	A B C D N U
1.1 Neutral Condition	A B C D N U
1.11 Overall Cable Condition	A B C D N U

2 Pad Mounted Transformer

Location

(Minor) Heat Damage to tanks throughout Substd.

2.1 Main Cabinet Condition	A B C D N U
2.2 Pad Condition	A B C D N U
2.3 Oil Leaks	A B C D N U
2.4 Operating Temperature	A B C D N U
2.5 Overall Transformer Condition	A B C D N U

Cables and Terminations

2..5 Cable Condition	A B C D N U
2.6 Termination Condition	A B C D N U
2.7 Neutral Condition	A B C D N U
2.8 Overall Cable Condition	A B C D N U

Data sources used

Mine inspection record ☐ Interviews ☐ Photos taken (no.)

Inspector Name and Date — Name — Date

(write any comments or concerns on the back of this form)

Asset Condition Survey
Underground Distribution

Substation	
Op Desn	
Age	12-15 yrs.
Voltage	8.2kV / 120 240V.
Location	Bolin Station.

1.0 Pad Mounted Switchgear

	Circle ONLY one
1.1 Main Cabinet Condition	A B C D N U
1.2 Pad Condition	A B C D N U
1.3 Insulators Condition	A B C D N U
1.4 Contact Condition	A B C D N U
1.5 Operating Mechanism Condition	A B C D N U
1.6 Electrical Connections Condition	A B C D N U
1.7 Signs of Over Heating?	A B C D N U
1.7 Overall Condtion	A B C D N U

Cables and Terminations

1.8 Cable Condition	A B C D N U
1.9 Termination Condition	A B C D N U
1.1 Neutral Condition	A B C D N U
1.11 Overall Cable Condition	A B C D N U

2 Pad Mounted Transformer

Location: On Submersible Tx Pad, 1940s.

2.1 Main Cabinet Condition	A B C D N U
2.2 Pad Condition	A B C D N U
2.3 Oil Leaks	A B C D N U
2.4 Operating Temperature	A B C D N U
2.5 Overall Transformer Condition	A B C D N U

Cables and Terminations

2..5 Cable Condition	A B C D N U
2.6 Termination Condition	A B C D N U
2.7 Neutral Condition	A B C D N U
2.8 Overall Cable Condition	A B C D N U

Data sources used

Mtce inspection record ☐ Interviews ☐ Photos taken (no.) 4

Inspector Name and Date — Name: G Ebersbach — Date: Nov. 18, 2010

(write any comments or concerns on the back of this form)

Asset Condition Survey
Overhead Distribution

Substation	[redacted]
Op Desn	[redacted]
Age	Unknown
Voltage	[redacted]
Location	Kalar TS

1.0 Remotely Operated Pole Mounted Load Break Switch

	Circle ONLY one
1.1 Insulator Condition	A B C D N U
1.2 Mechanical Support Condition	A B C D N U
1.3 Signs of Over Heating?	A B C D N U
1.4 Contact Condition	A B C D N U
1.5 Operating Mechanism Condition	A B C D N U
1.6 Motor Operator and Control Condition	A B C D N U
1.7 Overall Condtion	A B C D N U

2 Manually Operated Pole Mounted Load Break Switch

1.1 Insulator Condition	A B C D N U
1.2 Mechanical Support Condition	A B C D N U
1.3 Signs of Over Heating?	A B C D N U
1.4 Contact Condition	A B C D N U
1.5 Operating Mechanism Condition	A B C D N U
1.6 Overall Condtion	A B C D N U

3 Pole Location [redacted]

1.1 Holes and Cracks ?	(A) B C D N U
1.2 Rot ?	(A) B C D N U
1.3 Cross arm Condition	A B C D (N) U
1.4 Overall Pole Condtion	(A) B C D N U

3 Pole Mounted Transformer Location [redacted]

1.1 Tank Integrity	A B C D N U
1.2 Oil Leak	A B C D N U
1.3 Bushing Condition	A B C D N U
1.4 Electrical Connections	A B C D N U
1.5 Signs of Overheating?	A B C D N U
1.6 Overall Transformer Condition	

Data sources used

Mtce inspection record ☐ Interviews ☐ Photos taken (no.) [redacted]

Name Date

Inspector Name and Date [redacted] Nov 16, 2010

(write any comments or concerns on the back of this form)

Asset Condition Survey
Underground Distribution

Substation		101
Op Desn	X-L PE / PIPE	102
Age		103
Voltage	13.8 KV	104
Location	Various	105

1.0 Pad Mounted Switchgear

	Circle ONLY one	
1.1 Main Cabinet Condition	A B C D N U	108
1.2 Pad Condition	A B C D N U	109
1.3 Insulators Condition	A B C D N U	111
1.4 Contact Condition	A B C D N U	112
1.5 Operating Mechanism Condition	A B C D N U	113
1.6 Electrical Connections Condition	A B C D N U	114
1.7 Signs of Over Heating?	A B C D N U	115
1.7 Overall Condition	A B C D N U	116

Cables and Terminations

(Sulphurous Soil).
Black Corrosion.
350 MCM, 600 MCM.

1.8 Cable Condition	A B C D N U	120
1.9 Termination Condition	A B C D N U	121
1.1 Neutral Condition	A B C D N U	122
1.11 Overall Cable Condition	A B C D N U	123

2 Pad Mounted Transformer Location 125

2.1 Main Cabinet Condition	A B C D N U	127
2.2 Pad Condition	A B C D N U	128
2.3 Oil Leaks	A B C D N U	129
2.4 Operating Temperature	A B C D N U	130
2.5 Overall Transformer Condition	A B C D N U	131

Cables and Terminations

2..5 Cable Condition	A B C D N U	135
2.6 Termination Condition	A B C D N U	136
2.7 Neutral Condition	A B C D N U	137
2.8 Overall Cable Condition	A B C D N U	138

Data sources used

Mine inspection record ☐ Interviews ☐ Photos taken (no.) 141

Inspector Name and Date — Name: G. Ebersbach — Date: Nov. 18, 2010 144

(write any comments or concerns on the back of this form)

Asset Condition Survey
Overhead Distribution

Substation		101
Op Desn		102
Age	4.16 KV	103
Voltage		104
Location	Pelham Corners	105

1.0 Remotely Operated Pole Mounted Load Break Switch

	Circle ONLY one	
1.1 Insulator Condition	A B C D N U	109
1.2 Mechanical Support Condition	A B C D N U	110
1.3 Signs of Over Heating?	A B C D N U	111
1.4 Contact Condition	A B C D N U	112
1.5 Operating Mechanism Condition	A B C D N U	113
1.6 Motor Operator and Control Condition	A B C D N U	114
1.7 Overall Condition	A B C D N U	115

2 Manually Operated Pole Mounted Load Break Switch

1.1 Insulator Condition	A B C D N U	120
1.2 Mechanical Support Condition	A B C D N U	121
1.3 Signs of Over Heating?	A B C D N U	122
1.4 Contact Condition	A B C D N U	123
1.5 Operating Mechanism Condition	A B C D N U	124
1.6 Overall Condition	A B C D N U	125

3 Pole Location

1.1 Holes and Cracks ?	A B C D N U	130
1.2 Rot ?	A B C D N U	131
1.3 Cross arm Condition	A B C D N U	132
1.4 Overall Pole Condition	A B C D N U	133

3 Pole Mounted Transformer Location Pelham MS

1.1 Tank Integrity	(A) B C D N U	126
1.2 Oil Leak	A B C D (N) U	127
1.3 Bushing Condition	A (B) C D N U	128
1.4 Electrical Connections	A B C D N (U)	129
1.5 Signs of Overheating?	(A) B C D N U	135
1.6 Overall Transformer Condition		

Data sources used

Mtce inspection record ☐ Interviews ☐ Photos taken (no.) [redacted] 140

Inspector Name and Date Name [redacted] Date Nov. 18, 2010 142

(write any comments or concerns on the back of this form)

Asset Condition Survey
Overhead Distribution

Substation
Op Desn
Age
Voltage
Location McLeod Rd. Overpass

1.0 Remotely Operated Pole Mounted Lead Break Switch

Circle ONLY one

1.1 Insulator Condition	A B C D NU	109
1.2 Mechanical Support Condition	A B C D NU	110
1.3 Signs of Over Heating?	A B C D NU	111
1.4 Contact Condition	A B C D NU	112
1.5 Operating Mechanism Condition	A B C D NU	113
1.6 Motor Operator and Control Condition	A B C D NU	114
1.7 Overall Condition	A B C D NU	115

2 Manually Operated Pole Mounted Lead Break Switch

1.1 Insulator Condition	A B C D NU	120
1.2 Mechanical Support Condition	A B C D NU	121
1.3 Signs of Over Heating?	A B C D NU	122
1.4 Contact Condition	A B C D NU	123
1.5 Operating Mechanism Condition	A B C D NU	124
1.6 Overall Condition	A B C D NU	125

Location

3 Pole

1.1 Holes and Cracks ?	A B C D NU	130
1.2 Rot ?	A B C D NU	131
1.3 Cross arm Condition	A B C D NU	132
1.4 Overall Pole Condition	A B C D NU	135

Location

3 Pole Mounted Transformer

1.1 Tank Integrity	A B C D NU	130
1.2 Oil Leak	A B C D NU	131
1.3 Bushing Condition	A B C D NU	132
1.4 Electrical Connections	A B C D NU	135
1.5 Signs of Overheating?	A B C D NU	135
1.6 Overall Transformer Condition		

Data sources used

Mtce inspection record ☐ Interviews ☐ Photos taken (no.) 140

Inspector Name and Date

Name G Zorzetto

Date Nov. 18, 2010 142

(Note comments or concerns on the back of this form)

Asset Condition Survey
Underground Distribution

Substation	
Op Desn	SF6. G+W.
Age	
Voltage	
Location	Niagara Square Mall

1.0 Pad Mounted Switchgear

	Circle ONLY one
1.1 Main Cabinet Condition	(A) B C D N U
1.2 Pad Condition	A (B) C D N U
1.3 Insulators Condition	(A) B C D N U
1.4 Contact Condition	(A) B C D N U
1.5 Operating Mechanism Condition	(A) B C D N U
1.6 Electrical Connections Condition	(A) B C D N U
1.7 Signs of Over Heating?	A B C D N (U)
1.7 Overall Condtion	(A) B C D N U

Cables and Terminations

1.8 Cable Condition	A B C D N U
1.9 Termination Condition	A B C D N U
1.1 Neutral Condition	A B C D N U
1.11 Overall Cable Condition	A B C D N U

2 Pad Mounted Transformer Location

2.1 Main Cabinet Condition	A B C D N U
2.2 Pad Condition	A B C D N U
2.3 Oil Leaks	A B C D N U
2.4 Operating Temperature	A B C D N U
2.5 Overall Transformer Condition	A B C D N U

Cables and Terminations

2..5 Cable Condition	A B C D N U
2.6 Termination Condition	A B C D N U
2.7 Neutral Condition	A B C D N U
2.8 Overall Cable Condition	A B C D N U

Data sources used

Miss inspection record ☐ Interviews ☐ Photos taken (no.)

Inspector Name and Date — Name: G. Ebersberger — Date: Nov. 18, 2010

(write any comments or concerns on the back of this form)

5/9/2008 Survey Form-1/1 Underground Distribution VI Form.xls

Asset Condition Survey
Underground Distribution

Substation	[redacted]	101
Op Desc	[redacted]	102
Age	[redacted]	103
Voltage	[redacted]	104
Location	Niagara Square	105

1.0 Pad Mounted Switchgear

	Circle ONLY one	
1.1 Main Cabinet Condition	A B C D N U	109
1.2 Pad Condition	A B C D N U	110
1.3 Insulators Condition	A B C D N U	111
1.4 Contact Condition	A B C D N U	112
1.5 Operating Mechanism Condition	A B C D N U	113
1.6 Electrical Connections Condition	A B C D N U	114
1.7 Signs of Over Heating?	A B C D N U	115
1.7 Overall Condition	A B C D N U	116

Cables and Terminations

1.8 Cable Condition	A B C D N U	120
1.9 Termination Condition	A B C D N U	121
1.1 Neutral Condition	A B C D N U	122
1.11 Overall Cable Condition	A B C D N U	123

2 Pad Mounted Transformer Location 300KVA 802123 125

2.1 Main Cabinet Condition	A B C D N U	127
2.2 Pad Condition	A B C D N U	128
2.3 Oil Leaks	A B C D N U	129
2.4 Operating Temperature	A B C D N U	130
2.5 Overall Transformer Condition	A B C D N U	131

Cables and Terminations

2..5 Cable Condition	A B C D N U	135
2.6 Termination Condition	A B C D N U	136
2.7 Neutral Condition	A B C D N U	137
2.8 Overall Cable Condition	A B C D N U	138

Data sources used

Mine inspection record ☐ Interviews ☐ Photos taken (no.) [redacted] 141

Name Date

Inspector Name and Date [redacted] Nov. 13, 2006 144

(write any comments or concerns on the back of this form)

5/9/2006 Survey Form-1/1 Underground Distribution VI Form.xls

Asset Condition Survey
Underground Distribution

Substation [redacted] 101
Op Desc [redacted] 102
Age [redacted] 103
Voltage [redacted] 104
Location Pelham Corners 105

1.0 Pad Mounted Switchgear

Circle ONLY one

1.1 Main Cabinet Condition	A B C D N U	109
1.2 Pad Condition	A B C D N U	110
1.3 Insulators Condition	A B C D N U	111
1.4 Contact Condition	A B C D N U	112
1.5 Operating Mechanism Condition	A B C D N U	113
1.6 Electrical Connections Condition	A B C D N U	114
1.7 Signs of Over Heating?	A B C D N U	115
1.7 Overall Condtion	A B C D N U	116

Cables and Terminations

1.8 Cable Condition	A B C D N U	139
1.9 Termination Condition	A B C D N U	121
1.1 Neutral Condition	A B C D N U	120
1.11 Overall Cable Condition	A B C D N U	123

2 Pad Mounted Transformer

Location [redacted] 129

2.1 Main Cabinet Condition	A B C D N U	127
2.2 Pad Condition	A B C D N U	128
2.3 Oil Leaks	A B C D N U	129
2.4 Operating Temperature	A B C D N U	130
2.5 Overall Transformer Condition	A B C D N U	131

Cables and Terminations

2..5 Cable Condition	A B C D N U	135
2.6 Termination Condition	A B C D N U	135
2.7 Neutral Condition	A B C D N U	137
2.8 Overall Cable Condition	A B C D N U	138

Data sources used

Mine inspection record ☐ Interviews ☐ Photos taken (no.) [redacted] 140

Inspector Name and Date — Name G. Ebashaugh — Date Nov. 18, 2010 141

(write any comments or concerns on the back of this form)

5/9/2008 Survey Form-1/1 Underground Distribution VI Form.xls

Asset Condition Survey
Underground Distribution

Substation	Stn 28
Op Desn	
Age	
Voltage	13.8KV
Location	Lundy's Lane at Montrose

1.0 Pad Mounted Switchgear

	Circle ONLY one
1.1 Main Cabinet Condition	A B C D N U
1.2 Pad Condition	A B C D N U
1.3 Insulators Condition	A B C D N U
1.4 Contact Condition	A B C D N U
1.5 Operating Mechanism Condition	A B C D N U
1.6 Electrical Connections Condition	A B C D N U
1.7 Signs of Over Heating?	A B C D N U
1.7 Overall Condtion	A B C D N U

Cables and Terminations

1.8 Cable Condition	A B C D N U
1.9 Termination Condition	A B C D N U
1.1 Neutral Condition	A B C D N U
1.11 Overall Cable Condition	A B C D N U

2 Pad Mounted Transformer

Location

2.1 Main Cabinet Condition	A B C D N U
2.2 Pad Condition	A B C D N U
2.3 Oil Leaks	A B C D N U
2.4 Operating Temperature	A B C D N U
2.5 Overall Transformer Condition	A B C D N U

Cables and Terminations

2..5 Cable Condition	A B C D N U
2.6 Termination Condition	A B C D N U
2.7 Neutral Condition	A B C D N U
2.8 Overall Cable Condition	A B C D N U

Data sources used

More inspection needed ☐ Interviews ☐ Photos taken (no.) 4

Inspector Name and Date — Name: G Ebenberger — Date: Nov. 08, 2010

(write any comments or concerns on the back of this form)

5/8/2008

Asset Condition Survey
Overhead Distribution

Substation
Op Dean
Age
Voltage 4800
Location Hwy 20 at Victoria - Pelham Corners

1.0 Remotely Operated Pole Mounted Load Break Switch

	Circle ONLY one
1.1 Insulator Condition	A B C D N U
1.2 Mechanical Support Condition	A B C D N U
1.3 Signs of Over Heating?	A B C D N U
1.4 Contact Condition	A B C D N U
1.5 Operating Mechanism Condition	A B C D N U
1.6 Motor Operator and Control Condition	A B C D N U
1.7 Overall Condtion	A B C D N U

2 Manually Operated Pole Mounted Load Break Switch

1.1 Insulator Condition	(A) B C D N U
1.2 Mechanical Support Condition	A (B) C D N U
1.3 Signs of Over Heating?	A B C D N (U)
1.4 Contact Condition	A B C D N (U)
1.5 Operating Mechanism Condition	A B (C) D N U
1.6 Overall Condtion	A B (C) D N U

3 Pole Location

1.1 Holes and Cracks ?	A B C D N U
1.2 Rot ?	A B C D N U
1.3 Cross arm Condition	A B C D N U
1.4 Overall Pole Condtion	A B C D N U

3 Pole Mounted Transformer Location

1.1 Tank Integrity	A B C D N U
1.2 Oil Leak	A B C D N U
1.3 Bushing Condition	A B C D N U
1.4 Electrical Connections	A B C D N U
1.5 Signs of Overheating?	A B C D N U
1.6 Overall Transformer Condition	

Data sources used

Misc inspection record ☐ Interviews ☐ Photos taken (no.)

Inspector Name and Date — Name G. Ebanks — Date Nov. 18, 2010

(write any comments or concerns on the back of this form)

Appendix D
Budget

niagara peninsula energy

Our energy works for you.

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2011 Cost of Service Rate Application

2010 Projected Financial Statements and Capital Expenditures

2011 Capital and Operating Budgets

Niagara Peninsula Energy Inc.

2011 Cost of Service Rate Application

2011 Capital and Operating Budgets

Agenda

- Purpose of Rate Rebasing
- Summary of Bill Impacts
- Rate Summary 2006 to 2011
- 2011 Budget Report
- Rate Application Exhibits 1 to 9
- Revenue Requirements – Service and Base
- Rate Base – Projected 2010 Capital
- Rate Base – Budgeted 2011 Capital with Detail

Agenda - continued

- Exhibit 3 – Load Forecast
- Working Capital Allowance
- Exhibit 4 – OM&A Costs
- Income Statement 2011 vs.. 2010
- Balance Sheet 2011 vs.. 2010

Agenda - Continued

- Exhibit 5 – Cost of Capital
- Exhibit 6 – Revenue Deficiency
- Exhibit 7 – Cost Allocation
- Exhibit 8 – Rate Design and Other Rates
- Exhibit 9 – Deferral & Variance Rate Riders

Purpose of 2011 Cost of Service Rate Application

- 1) Maintain current capital investment levels in infrastructure to ensure a safe, reliable distribution system.
- 2) Continue with training programs for line staff needed to meet future staffing requirements and prepare for succession planning.
- 3) Manage staffing levels and skills to ensure regulatory compliance, promote conservation programs, implement changes resulting from the adoption of International Financial Reporting Standards and ensure NPEI can continue to move forward with changes stemming from the Green Energy and Green Economy Act.
- 4) Maintain or improve the level of service expected by our customers.
- 5) To provide a reasonable rate of return to the Shareholder.
- 6) Harmonize distribution rate classes, distribution rates, loss factors, low voltage rates, Retail Transmission Service Rates (Network and Connection) and other Specific Service Charges as agreed to in the merger agreement approved by the OEB on December 27, 2007
- 7) Harmonize the Conditions of Services between the former Niagara Falls Hydro LDC and the former Peninsula West Utilities Ltd LDC.

Revenue Deficiency

Table 6-5 Calculation of Revenue Deficiency or Surplus		
	2011 Test Year at Existing Rates	2011 Test Proposed Rates
Revenue		
Suff/ Def From Below.		3,378,275
Distribution Revenue	26,857,308	26,857,308
Other Operating Revenue (Net)	2,185,747	2,185,747
Total Revenue	29,043,055	32,421,330
Distribution Costs		
Operation, Maintenance, and Administration	14,295,435	14,295,435
Depreciation & Amortization	7,143,688	7,143,688
Property & Capital Taxes	222,474	222,474
Interest- Deemed Interest	4,340,146	4,340,146
Total Costs and Expenses	26,001,743	26,001,743
Utility Income Before Income Taxes	3,041,312	6,419,587
Net Adjustments per 2009 Pils	(131,884)	(131,884)
Taxable Income	2,909,428	6,287,703
Tax Rate	27.44%	27.44%
Income Tax	798,315	1,725,276
Utility Income	2,242,997	4,694,311
Rate Base	119,144,943	119,144,943
Equity	40.00%	40.00%
Equity Component Rate Base	47,657,977	47,657,977
Income / Equity Rate Base %	4.71%	9.85%
Target Return -Equity on Rate Base	9.85%	9.85%
Indicated Rate of Return	5.53%	7.58%
Requested Rate of Return on Rate Base	7.58%	7.58%
Difference	(2.06%)	0.00%
Return- Equity on Rate Base	4,694,311	4,694,311
Revenue Deficiency	2,451,313	
Revenue Deficiency (Gross-up)	3,378,275	

Exhibit 8 – Rate Design

Table 8-1 Calculation of Base Revenue Requirement	
Description	**Amount**
OM&A Expenses	$14,517,909
Amortization Expenses	$7,143,688
Regulated Return On Capital	$9,034,456
PILs	$1,725,276
Service Revenue Requirement	$32,421,330
Less: Revenue Offsets	$2,185,747
Base Revenue Requirement	**$30,235,583**

Bill Impacts

- Bill impacts vary by service area due to rate harmonization
- Bill Impacts for Niagara Falls customers for each rate class are included in each handout
- Bill Impacts for Pen West customers for each rate class are included in each handout

Summary of Total Bill Impacts NF area customer

		Monthly Bill Impact	
Rate Class	**Typical Monthly Usage**	**$**	**%**
Residential	800 kWh/month		
Comparison to 2010		$ 5.04	4.28%
GS<50 kw	2,000 kWh/month		
Comparison to 2010		$ 0.03	0.01%
GS>50 kW	65,000 kWh/month 180 kW/month		
Comparison to 2010		$ 142.93	1.96%
Sentinel	44 kWh/month 0.12 kW/month		
Comparison to 2010		$ 7.96	129.26%
Streetlighting	50 kWh/month 0.13 kW/month		
Comparison to 2010		$ 0.76	14.06%
USL	250 kWh/month		
Comparison to 2010		$ (2.88)	-5.20%

Summary of Total Bill Impacts PW area customer

		Monthly Bill Impact	
Rate Class	**Typical Monthly Usage**	**$**	**%**
Residential - Urban	800 kWh/month		
Comparison to 2010		$ 5.03	4.41%
Residential - Suburban	800 kWh/month		
Comparison to 2010		$ 8.59	7.78%
GS<50 kW	2,000 kWh/month		
Comparison to 2010		$ 19.63	7.22%
GS>50 kW	55,000 kWh/month 175 kW/month		
Comparison to 2010		$ (414.75)	-6.14%
Sentinel	44 kWh/month 0.12 kW/month		
Comparison to 2010		$ 8.36	148.75%
Street lighting	52 kWh/month 0.14 kW/month		
Comparison to 2010		$ 0.47	8.31%
USL	250 kWh/month		
Comparison to 2010		$ 15.20	42.02%

Bill Impacts – Niagara Falls excluding HST

The proposed Total Bill Impact for a Niagara Falls Residential customer excluding HST is $4.46 per month or 4.28% per month.

Using the average monthly consumption of 800 kWh per month a residential customer's monthly bill would be $108.72 or $1,304.64 annually excluding HST.

The annual increase totals $53.52.

The current rates in 2010 are based on 2004 values adjusted each year using the IRM model.

The annual increase of $53.52 is a cumulative result of not having rate rebasing increases from 2005 to 2010, or six years.

The cumulative increase would have been $8.92 per year from 2005 to 2010 or $0.74 per month for the last 72 months.

Bill Impacts – Pen West excluding HST

The proposed Total Bill Impact for a Peninsula West Residential Urban customer excluding HST is $4.45 per month or 4.41% per month. Using the average monthly consumption of 800 kWh per month a residential customer's monthly bill would be $105.52 or annually $1,266.24 excluding HST. The annual increase totals $53.40. The current rates in 2010 are based on 2004 values adjusted each year using the IRM model. The annual increase of $53.40 is a cumulative result of not having rate rebasing increases from 2005 to 2010, or six years. The cumulative increase would have been $8.90 per year from 2005 to 2010 or $0.74 per month for the last 72 months.

The proposed Total Bill Impact for a Peninsula West Residential Suburban customer excluding HST is $7.60 per month or 7.78% per month. Using the average monthly consumption of 800 kWh per month a residential customer's monthly bill would be $105.52 or annually $1,266.24 excluding HST. The annual increase totals $91.20. The current rates in 2010 are based on 2004 values adjusted each year using the IRM model. The annual increase of $91.20 is a cumulative result of not having rate rebasing increases from 2005 to 2010, or six years. The cumulative increase would have been $15.20 per year from 2005 to 2010 or $1.27 per month for the last 72 months.

Bill Impacts – Delivery Portion only

Niagara Falls

	Distribution portion	New Rate Rider	Low Voltage	Total $ change/mth	% Change per month
Residential - 800 kWh	3.07	1.36	0.24	4.67	17.64%
GS< 50	(0.62)	1.20	0.60	1.18	1.81%
GS>50	126.04	5.81	18.67	150.52	21.80%
Streetlight-1connection	0.67	0.01	0.01	0.69	143.79%
Sentinel	6.67	0.38	0.01	7.06	476.47%
USL	(2.81)	0.28	0.08	(2.45)	-9.55%

Peninsula West

	Distribution portion	New Rate Rider	Low Voltage	Total $ change/mth	% Change per month
Residential - Urban	5.47	1.36	(1.60)	5.23	23.02%
Residential - Suburban	8.54	1.36	(1.52)	8.38	42.82%
GS< 50	21.10	1.20	(3.00)	19.30	50.06%
GS>50	(207.06)	5.65	(121.10)	(322.51)	-32.70%
Streetlight-1connection	0.53	0.00	(0.08)	0.45	93.14%
Sentinel	7.11	0.38	(0.06)	7.43	754.09%
USL	13.84	0.28	(0.45)	13.67	157.38%

Total Delivery Bill Impact

Niagara Falls						
	Distribution portion	New Rate Rider	Low Voltage	Retail Transmission	Total $ change/mth	% Change per month
Residential - 800 kWh	3.07	1.36	0.24	0.19	4.86	13.94%
GS< 50	(0.62)	1.20	0.60	(0.15)	1.03	1.22%
GS>50	126.04	5.81	18.76	7.31	157.92	11.75%
Streetlight-1connection	0.67	0.01	0.01	0.00	0.69	81.48%
Sentinel	6.67	0.38	0.01	0.01	7.07	388.83%
USL	(2.81)	0.27	0.08	0.03	(2.43)	-8.63%

Peninsula West						
	Distribution portion	New Rate Rider	Low Voltage	Retail Transmission	Total $ change/mth	% Change per month
Residential - Urban	5.47	1.36	(1.60)	(0.18)	5.05	16.07%
Residential - Suburban	8.54	1.36	(1.52)	(0.18)	8.20	28.99%
GS< 50	21.10	1.20	(3.00)	(0.41)	18.89	32.53%
GS>50	(207.06)	5.65	(121.10)	(6.05)	(328.56)	-20.11%
Streetlight-1connection	0.53	0.00	(0.08)	0.00	0.45	51.29%
Sentinel	7.11	0.38	(0.06)	0.00	7.43	559.21%
USL	13.84	0.28	(0.45)	(0.03)	13.64	122.62%

Rate Summary 2006 to 2011- Residential

Residential						
	Service Charge					
	2006	**2007**	**2008**	**2009**	**2010**	**2011**
NF	16.19	16.62	16.49	16.24	15.96	16.55
PW-Urban	10.05	10.40	10.36	10.15	10.04	16.55
PW-Suburban	10.65	11.01	10.97	10.77	10.65	16.55
	Volumetric Charge					
	2006	**2007**	**2008**	**2009**	**2010**	**2011**
NF	0.0138	0.0139	0.0138	0.0138	0.0136	0.0167
PW-Urban	0.0255	0.0205	0.0204	0.0182	0.0180	0.0167
PW-Suburban	0.0197	0.0157	0.0158	0.0135	0.0134	0.0167

Rate Summary 2006 to 2011- GS < 50

GS<50						
	Service Charge					
	2006	**2007**	**2008**	**2009**	**2010**	**2011**
NF	47.99	48.69	48.3	48.10	47.27	38.45
PW	10.38	10.72	10.68	10.47	10.35	38.45
	Volumetric Charge					
	2006	**2007**	**2008**	**2009**	**2010**	**2011**
NF	0.0102	0.0103	0.0102	0.0102	0.01	0.0141
PW	0.0194	0.0196	0.0195	0.0178	0.0176	0.0141

Rate Summary 2006 to 2011- GS > 50

GS > 50						
	Service Charge					
	2006	**2007**	**2008**	**2009**	**2010**	**2011**
NF	284.36	287.21	284.91	285.05	280.14	222.81
PW	22.90	23.23	23.14	23.00	22.75	222.81
	Volumetric Charge					
	2006	**2007**	**2008**	**2009**	**2010**	**2011**
NF	3.0577	3.0855	3.0608	3.0652	3.0124	4.0311
PW	7.1880	7.2162	7.1873	6.4285	6.3575	4.0311

HOW DID WE GET HERE?

Exhibits

- Exhibit 1 – Administration Documents
- Exhibit 2 – Rate Base
- Exhibit 3 – Revenue and Load Forecasts
- Exhibit 4 – OM&A Costs
- Exhibit 5 – Cost of Capital
- Exhibit 6 – Revenue Requirement & Deficiency
- Exhibit 7 – Cost Allocation
- Exhibit 8 – Rate Design and Other Rates
- Exhibit 9 – Deferral & Variance Rate Riders

Revenue Requirement

Table 6-1		
2011 Revenue Requirement Calculation		
	2011 Test	
	Year ($)	**Comments**
Average Fixed Assets	101,968,654	From Exhibit 2
+		
Working Capital Allowance	17,176,290	From Exhibit 2
=		
Rate Base	119,144,943	
X		
Cost of Capital	7.58%	From Exhibit 5
=		
Return on Ratebase	9,034,456	
+		
Distribution Expenses (including Amortization)	21,661,597	From Exhibit 4
=		
Revenue Requirment before PILS	30,696,054	
+		
PILS	1,725,276	From Exhibit 4
=		
Service Revenue Requirment	32,421,330	
-		
Other Revenue	2,185,747	From Exhibit 3
=		
Base Revenue Requirement	30,235,583	
+		
Transformer Ownership Allowance	392,476	From Exhibit 3
+		
Low Voltage Charges	360,512	From Exhibit 8
=		
Throughput Revenue	30,988,570	

Revenue Requirement

- Service Revenue Requirement = $32,421,330
- Base Revenue Requirement = $30,235,583 = Distribution Revenues from the Service Charge and Volumetric Charge
- Difference between the Service Revenue and Base Revenue is Other Revenue from Interest, Late payment charges etc.

Exhibit 2 – Rate Base

Rate Base Overview:

- The rate base used for the purpose of calculating the revenue requirement used in this Application follows the definition used in the 2006 EDR Handbook as an average of the balances at the beginning and the end of the 2011 Test Year, plus a working capital allowance, which is 15% of the sum of the cost of power and controllable expenses.

- The net fixed assets include those distribution assets that are associated with activities that enable the conveyance of electricity for distribution purposes. The NPEI rate base calculation excludes any non-distribution assets, with the exception of the Kalar Transformer Station, which Niagara Falls Hydro put into service in 2004. The Kalar TS assets were approved by the Board in Niagara Falls Hydro's 2006 EDR Application (EB-2005-0394) to be deemed distribution assets. Controllable expenses include operations and maintenance, billing and collecting and administration expenses.

Summary of Rate Base 2006 to 2011

Description	2006 OEB Approved	2006 Actual	2007 Actual	2008 Actual	2009 Actual	2010 Bridge	2011 Test
Gross Fixed Assets	137,223,877	157,629,412	167,151,025	178,834,502	189,633,833	200,448,806	209,551,599
Accumulated Depreciation	61,873,995	77,119,914	83,320,645	88,712,000	94,663,241	99,459,705	106,603,393
Net Book Value	75,349,882	80,509,498	83,830,379	90,122,501	94,970,591	100,989,102	102,948,206
Average Net Book Value	75,349,882	79,697,709	82,169,939	86,976,440	92,546,546	97,979,846	101,968,654
Working Capital	94,476,164	96,568,962	101,102,311	99,919,226	104,598,525	110,160,769	114,508,597
Working Capital Allowance	14,171,425	14,485,344	15,165,347	14,987,884	15,689,779	16,524,115	17,176,290
Rate Base	89,521,305	94,183,053	97,335,286	101,964,324	108,236,325	114,503,962	119,144,943

Average Fixed Assets

- 2011 Average Fixed Assets = $101,968,654
- Only one half to the 2004 additions were included in the 2006 EDR rate application the other half is included in the 2011 rate application
- Only one half of the 2011 additions will be included in the 2011 rate application $9,102,793 * 50% = $4,551,397

Capital Additions 2004 to 2011

Year	$
2004	6,274,031
2005	6,276,384
2006	8,290,606
2007	10,418,607
2008	12,861,125
2009	11,493,176
2010	10,814,974
2011	4,551,397
	70,980,299

Major Capital Additions 2004 to 2009

Total additions from 2004 to 2009 = $55.6M

- Service Centre & Admin Bldg renovations - $7.4M
- Kalar Road TS - $5.6M
- Caistor Center $1.0M
- Drummond Road conversion and side streets $1.7M
- Durham voltage conversion $0.6M
- Kalar Road Feeder Egress $ 0.9M
- Bridge St. 1st & 2nd Avenue Rebuilds - $ 0.8M
- Lundy's Lane/Kalar/Garner Rebuild - $0.8M
- Armoury Stn #1 Rebuild $ 0.6M
- Garner Phase 3 – McLeod to ROW - $0.5M
- Claus Road Rebuild - $ 0.5M
- Montrose Rd Regional Municipal Niagara reconstruction - $0.5M
- Fonthill 27.6 extension & voltage conversion $ 0.7M

Major Capital Additions 2004 to 2009

- Kiosk conversions - $3.2M
- Rebuild Surveyed Area $$1.7M – 2007
- Rebuild Surveyed Area $$1.0M – 2008
- Rebuild Surveyed Area $$0.7M – 2009
- Pole replacements - $1.7M
- Subdivisions - $2.0M
- Demand net of contributions $7.4M
- Vehicles - $1.6M
- Software - $1.5M
- Hardware - $1.1M
- Office Equipment - $ 0.5M
- Other Equipment - $ 0.5M

Capital Expenditures – One-Time vs. Ongoing

Description	2005 Actual	2006 Actual	2007 Actual	2008 Actual	2009 Actual	2010 Bridge	2011 Test
One-Time Capital Expenditures							
Kalar TS R&D tax credits	(479,652)	(218,750)					
Pen West subdivisions relating to 5 years recorded in 2005	2,281,083						
Contributions for subdivisions relating to 5 years recorded in 2005	(2,281,083)						
Land	229,465				279,505		
Off-road track vehicle						416,667	
Niagara Falls building renovations				1,385,025			
Construction of service centre in Smithville				2,761,607	2,291,557		
Mobile substation						185,185	
Transfer smart meter capital into rate base						4,175,010	
One-Time Expenditures Total	**(250,188)**	**(218,750)**	**-**	**4,146,632**	**2,571,062**	**4,776,862**	**-**
Ongoing Capital Expenditures							
Distribution Plant	6,277,628	8,765,396	11,181,123	8,845,120	8,796,648	9,056,238	8,829,876
Buildings and Fixtures	50,706	55,592	448,718	-	94,148	188,557	-
Office Furniture and Equipment	65,635	73,858	18,181	174,930	161,652	70,564	92,593
Computer Hardware	183,075	119,227	101,762	525,453	185,269	273,500	291,898
Computer Software	643,900	213,418	62,326	208,496	369,215	278,954	182,870
Transportation Equipment	214,249	515,857	227,707	576,543	589,462	407,483	462,963
Tools and Equipment	193,454	120,466	61,918	96,855	130,443	125,824	92,593
Contributions and Grants	(1,639,689)	(1,354,458)	(1,683,128)	(1,712,904)	(1,197,961)	(1,200,000)	(850,000)
Ongoing Expenditures Total	**5,988,958**	**8,509,356**	**10,418,607**	**8,714,493**	**9,128,876**	**9,201,120**	**9,102,793**
Total Capital Additions	**5,738,770**	**8,290,606**	**10,418,607**	**12,861,125**	**11,699,938**	**13,977,982**	**9,102,793**

2010 Capital Additions

	Projected 2010	Budget 2010	Variance
Land	0	0	0
Buildings & Fixtures	189	200	11
Sub Total	189	200	11
Distribution Station	185	200	15
Overhead Distribution	3,908	3,999	91
Underground Distribution	2,736	2,845	109
Distribution Transformers	1,019	1,100	82
Meters	93	200	107
Sub Total	7,941	8,344	403
Office Furniture & Equipment	71	75	5
Computer Equipment, Hardware	274	285	12
Computer Software	279	300	21
Vehicles	824	855	31
Stores Equipment	19	0	(19)
Tools, Shop & Garage Equipment	94	105	11
Measurement & Testing Equipment	5	0	(5)
Communication equipment	3	0	(3)
Miscellaneous equipment	5	0	(5)
Streetlighting 1875's	0	0	0
Sub Total	1,573	1,621	48
Total Capital	9,702	10,165	462
Smart Meters added to Rate Base	4,175	3,483	(692)
Stranded Meters moved to Smart Meter Reg Asset	(3,063)		3,063
Total Smart Meters	1,112	3,483	2,371
Total Fixed Assets	10,815	13,648	2,833

2010 Capital Additions Detail – (000's)

South Pelham St. Fonthill	691
Minor Betterments – NF	649
Kiosk conversions	512
Demand work of	411
Switchgear replacement	393
Pole Replacements – NF	372
Robinson St-Allendale/Fallsview	335
Pole Replacements – PW	303
Durham Voltage Conversion	269
Murray Street	233
High Street	231
Fernwood estates	205
Oakwood Drive	201
Cherry Avenue	182
Dorchester NS&T to Morrison	180
Minor Betterments – PW	169
Campden DS Feeder Egress/Poles	164
Subdivisions	163
Kalar Catalina to Beaverdams	158
Pelham Municipal Station	148
Mountain East/West Garner	126
Townline Rd @ Canboro relocate	103
	6,198

2011 Capital Budget

Niagara Peninsula Energy Inc.
Capital Budget 2010
For the year ending December 31, 2011
(000's)

	Budget 2011	Projected 2010	Budget 2011 vs Projected 2010 Variance	Original Budget 2010	Projected 2010 vs Budget 2010 Variance
Land	0	0	0	0	0
Buildings & Fixtures	0	189	189	200	11
Sub Total	0	189	189	200	11
Distribution Station	463	185	(278)	200	15
Overhead Distribution	3,655	3,908	253	3,999	91
Underground Distribution	2,710	2,736	26	2,845	109
Distribution Transformers	967	1,019	52	1,100	82
Meters	185	93	(92)	200	107
Sub Total	7,980	7,941	(39)	8,344	403
Office Furniture & Equipment	93	71	(22)	75	5
Computer Equipment, Hardware	292	274	(18)	285	12
Computer Software	183	279	96	300	21
Vehicles	463	824	361	855	31
Stores equipment	0	19	19	0	(19)
Tools, Shop & Garage Equipment	93	94	2	105	11
Measurement & Testing Equipment	0	5	5	0	(5)
Measurement & Testing Equipment	0	3	3	0	(3)
Measurement & Testing Equipment	0	5	5	0	(5)
Streetlight	0	0	0	0	-
Sub Total	1,123	1,573	450	1,621	48
Total Annual Budget	**9,103**	**9,702**	**600**	**10,165**	**462**
Smart Meters added to Rate Base	0	4,175	4,175	3,483	(692)
Smart Meters 2011	500				
Stranded Meters moved to Smart Meter Reg Asset		(3,063)	(3,063)		3,063
	500	1,112	1,112	3,483	2,371
Total	9,603	10,815	1,712	13,647	2,833

2011 Capital Projects

- Underground primary replacement – Lundy's Lane and Ker St - $400K
- Lundy's Lane Line Rebuild – Kalar to Montrose Rd - $500K
- K-M-6 & K-M-2 Extension – Montrose Rd – McLeod to Canadian Dr. net $450K
- Riall Street Rebuild – St.Paul to Dorchester $290K
- Pad-mounted Switchgear Replacements - $400K
- Kalar Road – Beaverdams Rd to the NS&T ROW - $550K
- Sectionalizing – 4 units -$100K
- Vineland/NWMTS/Beamsville TS feeder sectionalizing - $100K

2011 Capital Projects

- Municipal Substation Rehab – Smithville - $500K
- Line Relocations due to Municipal Road Work requirements – net $300K
- Pole Replacement – combined Service Area - $1.3M
- OH line rebuild of deteriorated facilities - $1.0M
- Kiosks replacement $500K
- Minor betterment allowance – combined Service Area - $500K
- Subdivisions – combined Service Area – net $350K
- Demand projects – combined Service Area – net $900K
- Metering – wholesale meter points - $200K

2011 Capital Expenditures

- Office Furniture & Equipment (Appendix A) $ 93,000
- Computer Equipment Hardware (Appendix B) $292,000
- Computer Software (Appendix C) $183,000
- Vehicles (Appendix D) $463,000
- Tools, Shop & Garage Equipment (Appendix E) $ 93,000
- $1,123,000

Exhibit 3 – Revenue, Load Forecast and Other Revenue

Summary of Operating Revenue Table	2006 Board Approved ($)	2006 Actual ($)	Variance From 2006 Board Approved ($)	2007 Actual ($)	Variance From 2006 Actual ($)	2008 Actual ($)	Variance From 2007 Actual ($)	2009 Actual ($)	Variance From 2008 Actual ($)	Bridge Year 2010 ($)	Variance from 2009 Actual ($)	Test Year 2011 ($)	Variance From 2010 Test ($)
Distribution Revenue													
Residential	13,983,016	12,764,815	(1,218,201)	13,617,975	853,160	13,578,074	(39,902)	13,389,651	(188,422)	13,540,558	150,907	16,982,230	3,441,672
GS<50 kW	3,441,378	3,146,857	(294,521)	3,322,765	175,908	3,437,777	115,012	3,343,780	(93,997)	3,348,264	4,484	3,716,300	368,036
GS>50 kW	8,552,807	7,990,014	(562,793)	8,457,732	467,718	8,272,528	(185,204)	8,579,548	307,020	8,669,495	89,947	9,155,837	486,342
Streetlighting	85,642	81,137	(4,505)	85,858	4,721	106,990	21,132	67,282	(39,708)	86,542	19,259	182,318	95,776
Sentinel Lights	9,293	5,513	(3,780)	5,906	393	5,901	(5)	5,923	22	5,147	(776)	55,565	50,417
Unmetered Scattered Load	136,360	125,067	(11,293)	128,210	3,143	132,612	4,402	131,182	(1,430)	129,929	(1,253)	143,333	13,404
Total	26,208,498	24,113,404	(2,095,094)	25,618,446	1,505,042	25,533,882	(84,564)	25,517,367	(16,515)	25,779,935	262,568	30,235,583	4,455,648
Other Distribution Revenue													
Late Payment Charges	432,381	506,487	74,106	552,366	45,879	350,024	(202,342)	500,364	150,340	518,557	18,193	518,557	-
Specific Service Charges	734,394	858,366	123,973	907,332	48,965	963,121	55,789	951,925	(11,196)	884,942	(66,983)	956,878	71,935
Other Distribution Revenue	581,301	628,623	47,322	690,070	61,447	615,526	(74,544)	552,999	(62,527)	558,164	5,165	558,164	-
Other Income and Expenses	1,231,304	343,882	(887,422)	997,358	653,476	461,066	(536,292)	293,632	(167,434)	202,805	(90,827)	152,148	(50,657)
Total	2,979,380	2,337,359	(642,022)	3,147,126	809,767	2,389,737	(757,389)	2,298,920	(90,817)	2,164,469	(134,451)	2,185,747	21,278
Grand Total	29,187,878	26,450,762	(2,737,115)	28,765,572	2,314,810	27,923,619	(841,953)	27,816,287	(107,332)	27,944,404	128,117	32,421,330	4,476,926
Carrying Charges on Regulatory Assets		107,949		(427,916)		(206,779)		198,081		45,195		45,195	
Load Transfers Included on Income Statement as Other Revenue		(14,543)		(28,412)		(25,272)							
Other PWU adustment				(28,650)									
Total Gross Profit per Financial Statements		26,544,168		28,280,593		27,691,568		28,014,368		27,989,599		32,466,525	

Exhibit 3 – Distribution Revenue

- Distribution Revenue includes a fixed portion = Service Charge and a variable portion = Distribution Volumetric Charge

- Base Revenue Requirement for 2011 = $30,235,583

Summary Load & Customer Forecast

Year	Billed (kWh)	Growth (kWh)	Percentage Change (%)	Customer/ Connection (Count)	Growth (Count)	Percentage Change (%)
2003	1,108,347,420			59,715		
2004	1,135,405,804	27,058,384	2.44%	60,323	608	1.02%
2005	1,208,894,249	73,488,445	6.47%	61,003	680	1.13%
2006	1,184,184,647	-24,709,603	-2.04%	61,856	853	1.40%
2007	1,220,452,820	36,268,173	3.06%	62,459	603	0.97%
2008	1,188,897,732	-31,555,088	-2.59%	63,057	598	0.96%
2009	1,161,778,118	-27,119,614	-2.28%	64,026	968	1.54%
2010	1,170,387,731	8,609,613	0.74%	64,775	749	1.17%
2011	1,214,746,971	44,359,240	3.79%	65,533	758	1.17%

Load Forecast Determination

- Weather Normalization Model was used
- Used Purchased kWh's from each power bill since 2002
- Multifactor Regression Analysis was used
- Several variations and combinations were tested
- kWh's from CDM initiatives – used NPEI's targeted CDM kWh savings
- Used Model 4 as shown in the summary

Summary of Results of Regression Models

Model Version	V1	V2	V3	V4	V5	V6
Explanatory Variables Included	HDD, CDD, GDP Index, Number of Days, Spring/Fall, Peak Hours, Population	HDD, CDD, GDP Index, Number of Days, Spring/Fall, Peak Hours, Customers	HDD, CDD, GDP Index, Number of Days, Spring/Fall	HDD, CDD, GDP Index, Number of Days, CDM, Spring/Fall, Population	HDD, CDD, GDP Index, Number of Days, CDM, Spring/Fall, Customers	HDD, CDD, GDP Index, Number of Days, CDM, Spring/Fall
2010 Bridge Year Predicted Purchases (GWh)	1,231.36	1,244.42	1,249.52	1,230.38	1,208.73	1,213.60
2011 Test Year Predicted Purchases (GWh)	1,264.66	1,274.81	1,280.79	1,277.01	1,251.47	1,257.28
Adjusted R-Squared Value	0.924	0.926	0.923	0.937	0.938	0.935
Population regression coefficient	(347.48)	n/a	n/a	680.78	n/a	n/a
Customer Count regression coefficient	n/a	(231.12)	n/a	n/a	(228.52)	n/a
CDM kWh Saved Coefficient	n/a	n/a	n/a	(9.00)	(5.86)	(5.89)

Summary of Forecast Data

	2006 Board Approved	2006 Actual	2007 Actual	2008 Actual	2009 Actual	2010 Weather Normal	2011 Weather Normal
Actual kWh Purchases	1,227,609,037	1,248,057,840	1,283,916,366	1,248,342,618	1,217,543,467		
Predicted kWh Purchases		1,249,207,495	1,272,711,204	1,252,144,937	1,220,665,728	1,230,381,346	1,277,014,423
%Difference		0.1%	-0.9%	0.3%	0.3%		
Purchased kWh	1,227,609,037	1,248,057,840	1,283,916,366	1,248,342,618	1,217,543,467	1,230,381,346	1,277,014,423
Distribution Losses	(61,911,265)	(63,873,193)	(63,463,547)	(59,444,887)	(55,765,350)	(59,993,615)	(62,267,452)
Billed kWh	1,165,697,772	1,184,184,647	1,220,452,820	1,188,897,732	1,161,778,118	1,170,387,731	1,214,746,971
By Class							
Residential							
Customers	42,323	43,724	44,325	44,955	45,761	46,327	46,900
kWh	432,238,428	450,017,939	462,721,168	450,470,690	438,952,918	442,125,159	459,406,923
Usage per Customer	10,213	10,292	10,439	10,020	9,592	9,544	9,795
General Service < 50 kW							
Customers	4,204	4,438	4,339	4,260	4,257	4,304	4,352
kWh	128,799,263	122,020,708	125,994,115	122,663,804	119,930,976	118,817,295	121,437,543
Usage per Customer	30,637	27,495	29,038	28,794	28,175	27,605	27,902
General Service > 50 kW							
Customers	773	871	853	847	852	850	848
kWh	595,139,448	601,216,533	622,092,059	605,669,659	592,972,281	599,437,064	623,806,670
kW	1,678,133	1,777,691	1,884,479	1,735,816	1,753,191	1,735,456	1,806,009
Usage per Customer	769,909	690,260	729,299	715,076	695,793	704,989	735,330
Sentinel Lights							
Connections	602	594	569	564	566	563	560
kWh	315,411	317,191	295,243	286,832	294,273	293,544	292,817
kW	974	831	825	733	695	811	809
Usage per Connection	524	534	519	508	520	522	523
Streetlighting							
Connections	11,588	11,807	11,933	11,986	12,136	12,271	12,408
kWh	7,053,237	8,236,754	7,023,291	7,504,236	7,271,510	7,368,898	7,467,591
kW	19,630	19,932	20,188	20,371	20,319	19,842	20,107
Usage per Connection	609	698	589	626	599	600	602
Unmetered Scattered Load							
Connections	422	422	440	445	454	460	465
kWh	2,151,985	2,375,520	2,326,944	2,302,512	2,356,161	2,345,772	2,335,428
Usage per Connection	5,099	5,629	5,289	5,175	5,190	5,104	5,020
Total of Above							
Customer/Connections	59,912	61,856	62,459	63,057	64,026	64,775	65,533
kWh	1,165,697,772	1,184,184,647	1,220,452,820	1,188,897,732	1,161,778,118	1,170,387,731	1,214,746,971
kW from applicable classes	1,698,737	1,798,454	1,905,492	1,756,920	1,774,205	1,756,109	1,826,926

Comparison of 2010 predicted Billed kWh vs. Projected 2010 kWh's

- Model calculates predicted weather normalized 1,170,387,731 billed kWh's for 2010
- Using actual purchases up to September 30th plus 2009 actual purchases for the 4th quarter, projected billed kWh's for 2010 is 1,199,950,610
- Predicted purchases for 2011 = 1,277,014,423 kWh's
- Predicted Billed kWh's for 2011 = 1,214,746,971
- Difference between purchases and Billed kWh's is the Distribution System Loss at 5.13% historical average

Cost of Power

- kWh's from the Load Forecast are allocated to all classes and then split between RPP and non-RPP kWh's
- kWh's are multiplied by the supply cost which comes from a report issued by the OEB
- Cost of Power totals $99,630,176 for 2011
- Cost of Power is used in the Working Capital Allowance calculation

Working Capital Allowance

Description	2006 OEB Approved	2006 Actual	Variance from 2006 OEB Approved	2007 Actual	Variance from 2006 Actual	2008 Actual	Variance from 2007 Actual	2009 Actual	Variance from 2008 Actual	2010 Bridge	Variance from 2009 Actual	2011 Test	Variance from 2010 Bridge
Cost of Power	81,948,027	84,040,651	2,092,624	87,873,081	3,832,431	87,102,560	(770,521)	91,563,338	4,460,778	96,311,017	4,747,679	99,990,688	3,679,671
Operations	2,811,476	3,603,532	792,056	3,718,160	114,628	3,198,913	(519,247)	3,152,389	(46,524)	3,392,217	239,828	3,573,690	181,473
Maintenance	2,509,155	1,952,232	(556,923)	2,231,951	279,718	2,320,969	89,018	2,390,126	69,157	2,542,929	152,803	2,568,416	25,488
Billing & Collecting	2,734,341	3,232,894	498,553	3,371,741	138,847	3,771,715	399,974	3,630,381	(141,334)	3,884,221	253,840	4,195,729	311,509
Community Relations	90,365	72,955	(17,410)	83,295	10,340	36,877	(46,418)	64,569	27,692	79,548	14,979	81,464	1,916
Administration & General Expense	4,177,410	3,471,836	(705,574)	3,622,877	151,041	3,256,921	(365,956)	3,582,468	325,547	3,718,838	136,369	3,876,135	157,298
Property Taxes	205,390	194,863	(10,527)	201,207	6,344	231,271	30,064	215,254	(16,017)	232,000	16,746	222,474	(9,526)
Working Capital	94,476,164	96,568,962	2,092,798	101,102,311	4,533,349	99,919,226	(1,183,085)	104,598,525	4,679,299	110,160,769	5,562,244	114,508,597	4,347,828

Other Revenue

Note:	Uniform System of Account #	Description	2006 Board Approved	2006 Actual	2007 Actual	2008 Actual	2009 Actual	2010 Bridge	2011 Test
	4080	SSS Administrative Charge	(126,178)	(125,297)	(124,047)	(136,567)	(114,808)	(126,094)	(126,094)
A	4235	Miscellaneous Service Revenues	(918,570)	(974,099)	(1,028,043)	(912,222)	(951,925)	(884,942)	(956,878)
	4225	Late Payment Charges	(432,381)	(506,487)	(552,366)	(350,024)	(500,364)	(518,557)	(518,557)
	4082	RS Rev	(44,777)	(54,443)	(86,142)	(83,876)	(80,996)	(80,748)	(80,748)
	4084	Serv Tx Requests	(462)	(4,742)	(5,376)	(2,492)	(1,124)	(2,970)	(2,970)
	4090	Electric Services Incidental to Energy Sales	-	-	-	-	-	-	-
	4205	Interdepartmental Rents	-	-	-	-	-	-	-
	4210	Rent from Electric Property	(3,894)	-	-	-	-	-	-
B	4215	Other Utility Operating Income	(320,130)	(369,759)	(374,635)	(392,591)	(356,071)	(348,352)	(348,352)
	4220	Other Electric Revenues	(33,843)	-	-	-	-	-	-
	4240	Provision for Rate Refunds	-	-	-	-	-	-	-
	4245	Government Assistance Directly Credited to Income	-	-	-	-	-	-	-
	4305	Regulatory Debits	-	-	-	-	-	-	-
	4310	Regulatory Credits	-	-	-	-	-	-	-
	4315	Revenues from Electric Plant Leased to Others	-	-	-	-	-	-	-
	4320	Expenses of Electric Plant Leased to Others	-	-	-	-	-	-	-
D	4325	Revenues from Merchandise, Jobbing, Etc.	(6)	-	-	881	-	-	-
	4330	Costs and Expenses of Merchandising, Jobbing, Etc	-	-	-	-	-	-	-
	4335	Profits and Losses from Financial Instrument Hedges	-	-	-	-	-	-	-
	4340	Profits and Losses from Financial Instrument Investments	-	-	-	-	-	-	-
	4345	Gains from Disposition of Future Use Utility Plant	-	-	-	-	-	-	-
	4350	Losses from Disposition of Future Use Utility Plant	-	-	-	-	-	-	-
	4355	Gain on Disposition of Utility and Other Property	(11,984)	(10)	(186,178)	-	(2,450)	-	-
	4360	Loss on Disposition of Utility and Other Property	-	-	-	-	-	-	-
	4365	Gains from Disposition of Allowances for Emission	-	-	-	-	-	-	-
	4370	Losses from Disposition of Allowances for Emission	-	-	-	-	-	-	-
C	4375	Revenues from Non-Utility Operations	-	-	-	(50,899)	(182,223)	(116,200)	(65,480)
	4380	Expenses of Non-Utility Operations	-	182,603	-	-	-	-	-
	4385	Expenses of Non-Utility Operations	-	-	-	-	-	-	-
	4390	Miscellaneous Non-Operating Income	(612,150)	(29,237)	(21,326)	-	(27,284)	(39,937)	(40,000)
	4395	Rate-Payer Benefit Including Interest	-	-	-	-	-	-	-
	4398	Foreign Exchange Gains and Losses, Including Amortization	-	-	-	-	-	-	-
	4405	Interest and Dividend Income	(475,005)	(455,887)	(769,014)	(461,947)	(81,675)	(46,668)	(46,668)
	4415	Equity in Earnings of Subsidiary Companies	-	-	-	-	-	-	-
		Total	**(2,979,380)**	**(2,337,359)**	**(3,147,126)**	**(2,389,737)**	**(2,298,920)**	**(2,164,469)**	**(2,185,747)**
	Specific Service Charges		(918,570)	(974,099)	(1,028,043)	(912,222)	(951,925)	(884,942)	(956,878)
	Late Payment Charges		(432,381)	(506,487)	(552,366)	(350,024)	(500,364)	(518,557)	(518,557)
	Other Distribution Revenues		(529,284)	(554,241)	(590,199)	(615,526)	(552,999)	(558,164)	(558,164)
	Other Income and Expenses		(1,099,145)	(302,531)	(976,518)	(511,965)	(293,632)	(202,805)	(152,148)
	Total		**(2,979,380)**	**(2,337,359)**	**(3,147,126)**	**(2,389,737)**	**(2,298,920)**	**(2,164,469)**	**(2,185,747)**

Exhibit 4 – OM&A Costs

	2006 Board Approved	2006 Actuals	Variance 2006BA - 2006 Actuals	2007 Actuals	Variance 2007 - 2006 Actuals	2008 Actuals	Variance 2008 - 2007 Actuals	2009 Actuals	Variance 2009 - 2008 Actuals	Bridge Year 2010	Variance Bridge 2010 - 2009 Actuals	Test Year 2011	Variance Test 2011 - Bridge 2010
Operation	2,811,476	3,603,532	792,055	3,718,160	114,628	3,198,913	(519,247)	3,152,389	(46,524)	3,392,217	239,828	3,573,690	181,473
Maintenance	2,509,155	1,952,232	(556,923)	2,231,951	279,718	2,320,969	89,018	2,390,126	69,157	2,542,929	152,803	2,568,416	25,488
Billing and Collecting	2,971,181	3,232,894	261,713	3,371,741	138,847	3,771,715	399,974	3,630,381	(141,334)	3,884,221	253,840	4,195,729	311,509
Community Relations	98,291	72,955	(25,336)	83,295	10,340	36,877	(46,418)	64,569	27,692	79,548	14,979	81,464	1,916
Administrative and General	4,138,033	3,691,084	(446,949)	3,816,177	125,093	3,464,139	(352,038)	3,833,199	369,060	3,802,684	(30,516)	3,876,135	73,452
Total OM&A Expenses	12,528,137	12,552,697	24,560	13,221,323	668,626	12,792,613	(428,710)	13,070,664	278,051	13,701,598	630,934	14,295,435	593,837
Variance from Previous Year			24,560		668,626		(428,710)		278,051		630,934		593,837
Percent Change (year over year)			0.20%		5.33%		-3.24%		2.17%		4.83%		4.33%
Percent Change (2011 Test vs 2009 actuals)												9.37%	
Percent Change (2011 Test vs 2006 Board Approved)												14.11%	
Average for 2007, 2008, 2009		1.42%											
Compound Annual Growth Rate (for 2007, 2008, 2009)		1.36%											
Inflation Rate		2.1%		1.9%		2.1%		2.3%		1.3%		2.0%	

OM&A variances

- Note 2008 OM&A decreased from 2007 as a result of the merger savings
- Rate application requires all variances by OEB account > Materiality ($150,000) be explained, NPEI chose to explain all variances > $75,000

OM&A Cost Drivers

OM&A	2006 Actual	2007 Actual	2008 Actual	2009 Actual	2010 Bridge	2011 Test
Opening Balance 2005	12,448,658	12,552,697	13,221,323	12,792,614	13,070,665	13,701,598
OMERS	53,248	43,286	48,029	24,245	47,969	15,526
Employee benefits (health, dental, life)	41,094	43,511	38,725	11,944	60,591	15,740
Post retirement benefits	8,124	8,899	58,310	8,755	13,349	7,209
Net New positions in 2005 full year in 2006	78,586	78,586	78,586	78,586	78,586	78,586
Net New positions hired/retired in 2006	90,726	81,817	81,817	81,817	81,817	81,817
Net New positions hired/retired in 2007		(112,806)	(174,142)	(174,142)	(174,142)	(174,142)
Net New positions hired/retired in 2008			217,262	180,437	180,437	180,437
Net New positions hired/retired in 2009				(17,960)	39,136	39,136
Net New positions hired/retired in 2010					80,769	154,529
Net New positions hired/retired in 2011						75,880
Inflationary payroll increases	114,446	114,317	126,721	131,035	129,545	135,107
Bad Debts	176,660	(46,716)	96,024	135,831	-	(15,100)
Regulatory Expenses	136,952	(50,226)	58,387	18,949	-	78,429
Reduction in expenses Account 5020		(100,139)	(206,305)	-	38,811	
Reduction in Materials of OH Maintenance 5025	(133,175)	(38,195)	(147,190)	-	-	
UG distribution lines Account 5040			(78,800)			
Meter labour and expenses			(148,052)	-	(4,948)	(39,827)
Account 5070 Customer premises			(47,428)	(65,246)	26,170	
Reduction in expenses Account 5120	(352,962)	-	(70,549)	(10,229)	11,328	
Increase/(Reduction) in expenses Account 5125	(148,816)	37,317	124,691	23,539	(10,668)	
Miscellaneous Expenses - Capital tax	-	-	-	43,513	(166,855)	(83,846)
Scrap meters related to previous years	(115,409)	115,409				
Pole Inspections	58,126	-	-	34,769	33,578	75,000
Tree trimming activities Account 5135	(29,670)	22,851	33,340	(66,287)	46,464	
Postage, envelopes and bill forms	-	24,080			49,597	40,000
Computer programming, software & hardware maintenance	(43,621)	16,797	61,995	(139,269)		25,000
Legal fees and outside consultants	86,091	181,175	(405,429)	36,120	9,360	
Office equipment lease and rent			(85,284)	57,555	(56,918)	
Payment to Hydro One by PW load transfer 1999 to 2002 Account 5	124,000					
Writeoff non-incremental Qualifying Transition costs in NF 2005	(123,650)					
Other	83,288	248,662	(89,418)	(115,911)	116,958	(95,645)
Closing Balance	12,552,697	13,221,323	12,792,614	13,070,665	13,701,598	14,295,435

Projected 2010 Income Statement

	Projected 2010	Budget 2010	Projected vs Budget $ Variance	Projected vs Budget % Variance	Actual 2009	2010 vs Actual 2009 $ Variance
SERVICE REVENUE						
Standard Supply Service NF	52,450	51,787	662	1%	53,939	(1,490)
Standard Supply Service PW	23,370	22,803	566	2%	21,395	1,975
Wholesale, Network & Connection Charges	20,492	20,298	194	1%	20,350	141
Service Charge	11,617	11,290	328	3%	11,295	322
Distribution Volumetric Charge	14,163	14,641	(478)	-3%	14,222	(60)
Standard Supply Service Admin Charge	126	126	0	0%	115	11
Retailer Revenue	84	79	5	6%	82	2
	122,301	121,023	1,278	1%	121,399	902
Cost of Power						
Power Purchased	96,311	94,888	(1,423)	-1%	95,684	(627)
Gross Profit Before Other Revenue	25,990	26,135	(145)	-1%	25,714	275
Other Revenue	2,000	1,708	292	17%	2,300	(300)
Gross Profit	27,990	27,843	146	1%	28,014	(25)
Expenses						
Operation and maintenance						
Distribution	5,841	5,645	(196)	-3%	5,486	(355)
Utilization	174	127	(47)	-37%	121	(53)
Administration & general	6,661	7,004	343	5%	6,877	215
Billing & Collecting	3,884	3,655	(230)	-6%	3,630	(254)
Depreciation	7,001	7,430	429	6%	6,642	(359)
Depreciation on FMV adjustment of fixed assets	1,122	1,105	(17)	100%	1,112	(10)
TOTAL EXPENSES	24,683	24,966	283	1%	23,868	(815)
Net Income/(Loss)	3,306	2,877	429	15%	4,146	(840)
Payments in Lieu of Income Taxes						
Income Tax expenses - current	1,356	1,151	(205)	-18%	2,509	1,154
Income tax expense future reduction	(600)	(600)	0	0%	(1,036)	(436)
Total payments in lieu of income taxes	756	551	(205)	-37%	1,474	718
Net Income/(Loss) After Taxes	2,551	2,326	224	10%	2,673	(122)

2011 Budget Income Statement

	Budget 2011	Projected 2010	2010 vs 2011 $ Variance	2010 vs 2011 % Variance	Actual 2009	2010 vs 2009 $ Variance	2010 vs 2009 % Variance
SERVICE REVENUE							
Standard Supply Service NF	55,227	52,450	2,778	5.30%	53,939	(1,490)	-2.76%
Standard Supply Service PW	23,481	23,370	111	0.48%	21,395	1,975	9.23%
Wholesale, Network & Connection Charges	21,282	20,492	791	3.86%	20,350	141	0.69%
Service Charge	13,188	11,617	1,570	13.52%	11,295	322	2.86%
Distribution Volumetric Charge	15,669	14,163	1,507	10.64%	14,222	(60)	-0.42%
Standard Supply Service Admin Charge	126	126	0	0.00%	115	11	9.83%
Retailer Revenue	84	84	-	0.00%	82	2	1.95%
	129,057	122,301	6,757	5.52%	121,399	902	0.74%
Cost of Power							
Power Purchased	99,991	96,311	(3,680)	-3.82%	95,684	(627)	-0.65%
Gross Profit Before Other Revenue	29,067	25,990	3,077	11.84%	25,714	275	1.07%
Other Revenue	2,021	2,000	21	1.06%	2,300	(300)	-13.05%
Gross Profit	31,088	27,990	3,098	11.07%	28,014	(25)	-0.09%
Expenses							
Operation and maintenance							
Distribution	6,046	5,841	(205)	-3.51%	5,486	(355)	-6.47%
Utilization	178	174	(4)	-2.34%	121	(53)	-43.29%
Administration & general	6,657	6,661	4	0.06%	6,877	215	3.13%
Billing & Collecting	4,196	3,884	(312)	-8.02%	3,630	(254)	-6.99%
Depreciation	7,144	7,001	(143)	-2.04%	6,642	(359)	-5.40%
Depreciation on FMV adjustment of fixed assets	1,086	1,122	36	3.21%	1,112	(10)	-0.93%
TOTAL EXPENSES	25,306	24,683	(623)	-2.52%	23,868	(815)	-3.41%
Net Income/(Loss)	5,781	3,306	2,475	74.86%	4,146	(840)	-20.26%
Payments in Lieu of Income Taxes							
Income Tax expenses - current	2,129	1,356	(773)	-57%	2,091	(38)	-2%
Income tax expense future reduction	(600)	(600)	0	0%	(618)	(18)	3%
Total payments in lieu of income taxes	1,529	756	(773)	-102%	1,473	(56)	-4%
Net Income/(Loss) After Taxes	4,253	2,551	1,702	66.72%	2,673	(123)	-4.59%

Balance Sheet 2011 vs. 2010 - Assets

	Budget 2011	Projected 2010	$ Variance	% Variance	Actual 2009	$ Variance	% Variance
ASSETS							
Current Assets							
Cash	6,591	7,161	(570)	-8%	9,763	(2,602)	-27%
Accounts Receivable	11,147	10,638	509	5%	9,557	1,081	11%
Unbilled Revenue	13,471	12,829	641	5%	14,329	(1,500)	-10%
Due from Affiliated Companies							
Niagara Falls Hydro Holding Corporation	30	30	0	0%	28	2	5%
Peninsula West Power	0	0	0	100%	2	(2)	-100%
Payments in lieu of corporate taxes refundable	0	0	0	200%	0	0	0%
Inventories	1,255	1,230	25	2%	1,282	(51)	-4%
Prepaid Expenses	537	537	0	0%	535	2	0%
	33,031	**32,425**	**606**	**2%**	**35,495**	**(3,070)**	**-9%**
Fixed Assets							
Land and land rights	2,956	2,956	0	0%	2,956	0	0%
Buildings	12,812	12,812	0	0%	12,623	189	1%
Distribution Stations	7,604	7,141	463	6%	6,956	0	0%
Transformer Station	6,548	6,548	0	0%	6,548	0	0%
Distribution lines							
Overhead	87,141	83,486	3,655	4%	79,578	3,908	5%
Underground	77,915	75,205	2,710	4%	72,469	2,736	4%
Distribution transformers	35,588	34,621	967	3%	33,602	1,019	3%
Distribution meters	9,175	8,990	185	2%	7,784	1,206	15%
Trucks and Equipment	15,691	14,568	1,123	8%	12,995	1,573	12%
	255,430	246,327	9,103	4%	235,512	10,815	5%
Less: Accumulated Depreciation	(133,143)	(125,999)	(7,144)	6%	(121,202)	(4,796)	4%
	122,287	**120,328**	**1,959**	**2%**	**114,309**	**6,019**	**5%**
Future payments in lieu of taxes	**3,531**	**2,931**	**600**	**20%**	**2,331**	**600**	**26%**
TOTAL ASSETS	**158,849**	**155,685**	**3,165**	**2%**	**152,136**	**3,149**	**2%**

Balance Sheet 2011 vs. 2010 – Liabilities & SH Equity

LIABILITIES							
Current Liabilities							
Accounts Payable	16,184	14,985	1,199	8%	14,813	171	1%
Due to Niagara Falls Hydro Services Inc.	5,546	5,384	162	3%	6,584	(1,200)	-18%
Due to Peninsula West Services	20	20	0	0%	20	0	0%
Deferred Standard Offer Revenue	116	116	0	0%	116.34999	(0)	100%
Current Portion of long term debt	2,136	2,023	113	0%	1,577	447	28%
Current Portion of other liabilities	740	925	(185)	0%	921	4	100%
	24,741	**23,453**	**1,288**	**5%**	**24,452**	**(999)**	**-4%**
Regulatory Liabilities							
Retail Cost Variances	(1,030)	(919)	(111)	12%	(807)	(111)	14%
Deferred Payment in Lieu of Taxes	821	797	24	3%	774	22	3%
Retail Settlement Variances	5,793	2,783	3,010	108%	8,083	(5,300)	-66%
Low Voltage variance	1,203	831	372	45%	571	260	46%
Other regulatory assets/(liabilities)	(20)	(10)	(10)	100%	(4)	(6)	128%
Smart Meters	283	(267)	550	-206%	(1,101)	833	-76%
Special Purpose Charge	0	(280)	280	-100%	0	(280)	#DIV/0!
Late Payment Deferred Liability	(84)	(168)	84	-50%	0	(168)	#DIV/0!
Regulatory Asset Recovery	0	0	0	#DIV/0!	112	(112)	-100%
Deferral & Variance Recovery	1,285	5,293	(4,008)	-76%	0	5,293	#DIV/0!
	8,250	**8,059**	**191**	**2%**	**7,629**	**430**	**6%**
Non-Current Liabilities							
Employee Sick Leave Liability	203	199	4	2%	199	0	0%
Employee Future Benefits	3,695	3,654	41	1%	3,613	41	1%
Customer Deposits	1,209	1,185	24	2%	1,135	50	4%
	5,107	**5,038**	**69**	**1%**	**4,947**	**91**	**2%**
Long Term Liabilities							
Long Term Note Payable to City of Niagara Falls	22,000	22,000	0	0%	22,000	0	0%
Long Term Note Payable Niagara Falls Hydro Holding	3,605	3,605	0	0%	3,605	0	0%
Long Term Bank Loan	11,704	13,840	(2,136)	-15%	11,864	1,977	17%
	37,310	**39,446**	**(2,136)**	**-5%**	**37,469**	**1,976**	**5%**
Shares							
Share Capital	31,246	31,246	0	0%	31,246	0	0%
Contributed Surplus	25,459	25,459	0	0%	25,459	0	0%
Retained Earnings	26,737	22,984	3,753	16%	20,933	2,051	10%
	83,442	**79,689**	**3,753**	**5%**	**77,638**	**2,051**	**3%**
TOTAL LIABILITIES & EQUITY	**158,849**	**155,685**	**3,165**	**2%**	**152,135**	**3,549**	**2%**

Average Age, Average Service, FTE's by Department, New FTE's by Year

Union

Department	Avg. Age	Avg.Length of Service
Accounting	39.8	5.0
Billing	46.9	13.2
Customer Service	43.4	9.6
Engineering	42.9	11.8
Metering	41.3	12.5
General Maintenance	46.0	17.5
Operation Services	39.9	11.4
Stores	61.5	20.0
Vehicle Maintenance	50.3	19.3
Average	**43.0**	**11.8**

Management

Department	Avg. Age	Avg.Length of Service
Executive	47.2	17.8
Mgrs/Supv/Supt	46.2	19.1
General & Admin	38.8	6.1
Average	**43.8**	**14.2**

	2010	2004	
Department	**Number**	**Number**	Change
Executive	5	7	-2
Finance(General Admin, Accounting & Regulatory)	10	6	4
Customer Service (Customer Service & Billing & Collection)	36	32	4
Engineering	18	13	5
Operations & Maintenance	55	44	11
Purchasing/Stores	3	4	-1
Health Safety and HR	3	1	2
Information Technology	3	1	2
Total Employees by Major Department	**133**	**108**	25

Year	New Positions since 2004	Number
2005	GIS Technologist	1
2005	Lineman Apprentices	1
2005	Junior buyer not replaced	-1
2006	Control Room Operator	1
2006	Engineering Tech	1
2006	Lineman Apprentices	1
2007	Engineering Manager	1
2007	IT Manager	1
2007	System Analyst	1
2008 & 2011	Engineering supervisor	2
2008	Controller	1
2008	Health & Wellness Co-ordinator	1
2008	HR clerk	1
2008	Office Administrator	-2
2008	Lineman Apprentices	3
2009	Regulatory Analyst	1
2009	EA Assistant	1
2009	Lineman Apprentices	4
2010	Business Analysts	2
2010	Co-op Accountant	1
2010	Lineman Apprentices	2
2009 & 2010	Smart Meter analysts	2
2011	Co-op Accountant	-1
	Total increment	25

OM&A variance 2011 vs. 2010

- OM&A increase of $516K or 3.12% over 2010 excluding depreciation
- Estimated 3% payroll inflationary wage increase based on historical average
- New Engineering Supervisor NF location
- Increase in # of Pole Inspections - $75K
- Utilization amount includes $30K for scholarships in both 2010 and 2011
- Billing and Collecting increased for 2 Business Analysts budgeted for full year vs. 5 months in 2010, Billing supervisor was on a medical leave for 5 months in 2010 budgeted for a full year in 2011,costs related to monthly billing budgeted for full year vs. 8 months in 2010, two additional customer service/billing clerks budgeted for in 2011 due to medical leaves in 2010

Exhibit 5 – Cost of Capital

- **Capital Structure:**
- NPEI has a current approved deemed capital structure of 60% debt with a combined return of 7.13% and 40% equity with a return of 9% as approved in the 2010 IRM rate decisions EB2009-0205 and EB2009-0206. The approved debt rate of 7.13% represents the weighted average approved debt rate of the predecessor companies of NPEI.

Deemed Cost of Capital 2010 and 2011

Deemed Capital Structure for 2010				
Description	**% of Rate Base**	**$**	**Cost Rate**	**Return**
Long Term Debt	60%	68,702,377	5.97%	4,100,818
Unfunded Short Term Debt	0%		0.00%	0
Total Debt	60%	68,702,377		4,100,818
Common Share Equity	40%	45,801,585	9.00%	4,122,143
Total equity	40%	45,801,585		4,122,143
Total Rate Base	100%	114,503,962	7.18%	8,222,960

Deemed Capital Structure for 2011				
Description	**% of Rate Base**	**$**	**Cost Rate**	**Return**
Long Term Debt	56%	66,721,168	6.36%	4,241,494
Unfunded Short Term Debt	4%	4,765,798	2.07%	98,652
Total Debt	60%	71,486,966		4,340,146
Common Share Equity	40%	47,657,977	9.85%	4,694,311
Total equity	40%	47,657,977		4,694,311
Total Rate Base	100%	119,144,943	7.58%	9,034,456

Exhibit 6 – Revenue Deficiency

Description	2010 Bridge Actual	2011 Test Existing Rates	2011 Test - Required Revenue
Revenue			
Revenue Deficiency	0	0	**3,378,275**
Distribution Revenue	25,989,747	26,857,308	26,857,308
Other Operating Revenue (Net)	1,999,852	2,185,747	2,185,747
Total Revenue	**27,989,599**	**29,043,055**	**32,421,330**
Costs and Expenses			
Administrative & General, Billing & Collecting	7,766,452	8,153,328	8,153,328
Operation & Maintenance	5,935,146	6,142,107	6,142,107
Depreciation & Amortization	7,000,940	7,143,688	7,143,688
Property Taxes	232,000	222,474	222,474
Capital Taxes	83,846	0	0
Deemed Interest	4,100,818	4,340,146	4,340,146
Total Costs and Expenses	**25,119,202**	**26,001,743**	**26,001,743**
Less OCT Included Above	(83,846)	0	0
Total Costs and Expenses Net of OCT	**25,035,356**	**26,001,743**	**26,001,743**
Utility Income Before Income Taxes	**2,954,243**	**3,041,312**	**6,419,587**
Income Taxes:			
Corporate Income Taxes	893,733	798,315	1,725,276
Total Income Taxes	**893,733**	**798,315**	**1,725,276**
Utility Net Income	**2,060,510**	**2,242,997**	**4,694,311**
Capital Tax Expense Calculation:			
Total Rate Base	114,503,962	119,144,943	119,144,943
Exemption	15,000,000	0	0
Deemed Taxable Capital	**99,503,962**	**119,144,943**	**119,144,943**
Ontario Capital Tax	83,846	0	0
Income Tax Expense Calculation:			
Accounting Income	2,954,243	3,041,312	6,419,587
Tax Adjustments to Accounting Income	93,207	(131,884)	(131,884)
Taxable Income	**3,047,450**	**2,909,428**	**6,287,703**
Income Tax Expense	893,733	798,315	1,725,276
Tax Rate Refecting Tax Credits	29.33%	27.44%	27.44%
Actual Return on Rate Base:			
Rate Base	114,503,962	119,144,943	119,144,943
Interest Expense	4,100,818	4,340,146	4,340,146
Net Income	2,060,510	2,242,997	4,694,311
Total Actual Return on Rate Base	**6,161,327**	**6,583,143**	**9,034,456**
Actual Return on Rate Base	5.38%	5.53%	7.58%
Required Return on Rate Base:			
Rate Base	114,503,962	119,144,943	119,144,943
Return Rates:			
Return on Debt (Weighted)	5.97%	6.07%	6.07%
Return on Equity	9.00%	9.85%	9.85%
Deemed Interest Expense	4,100,818	4,340,146	4,340,146
Return On Equity	4,122,143	4,694,311	4,694,311
Total Return	**8,222,960**	**9,034,456**	**9,034,456**
Expected Return on Rate Base	7.18%	7.58%	7.58%
Revenue Deficiency After Tax	**2,061,633**	**2,451,313**	**0**
Revenue Deficiency Before Tax	**2,917,154**	**3,378,275**	**0**

Revenue Deficiency

The Revenue Deficiency arises from the following major factors:

- An increase in net Average Fixed Assets of $26.62M from $75.35M of combined 2006 Board Approved to $101.97M in 2011
- An increase in Working Capital Allowance of $2.95M from 14.17M of combined 2006 Board Approved to $17.12M in 2011
- A decrease in Cost of Capital of 0.48% from combined 2006 Board Approved 8.06% to 7.58% in 2011
- An increase in Distribution Expenses including depreciation and amortization of $3.16M from combined 2006 Board Approved $18.50M to $21.66M in 2011.

Exhibit 7 – Cost Allocation

- One of the main objectives of the Cost Allocation filing is to provide information on any apparent cross-subsidization among a distributor's rate classifications. It was felt that this would give an indication of cross-subsidization from one class to another and this information would be useful as a tool in future rate applications.

Allocated Costs of Base Revenue Requirement

Table 7-2: Allocated Cost		
Rate Class	**Cost Allocated in the 2011 Study**	%
Residential	$21,470,314	66.2%
GS < 50	$3,677,379	11.3%
General Service 50 to 4999 kW	$6,599,352	20.4%
Streetlight	$383,681	1.2%
Sentinel Lights	$146,591	0.5%
Unmetered Scattered Load	$144,014	0.4%
Total	$32,421,330	100.0%

Revenue to Cost Ratios

Table 7-3 Revenue to Cost Ratios						
Class	2011 Cost Allocation Study	2011 Proposed Ratios	2012 Proposed Ratios	2013 Proposed Ratios	Board Targets Min to Max	
Residential	82.3%	85.0%	85.0%	85.0%	85.0%	115.0%
GS < 50	108.2%	108.2%	108.2%	108.2%	80.0%	120.0%
General Service 50 to 4999 kW	159.3%	148.6%	147.6%	146.6%	80.0%	180.0%
Streetlight	6.6%	47.9%	58.9%	70.0%	70.0%	120.0%
Sentinel Lights	25.7%	38.3%	54.1%	70.0%	70.0%	120.0%
Unmetered Scattered Load	100.5%	100.5%	100.5%	100.5%	80.0%	120.0%

Calculated Class Revenue

Table 7-4 Calculated Class Revenue				
Class	2011 Base Revenue at Existing Rates	2011 Proposed Base Revenue Allocated at Existing Rates Proportion	2011 Proposed Base Revenue	Miscellaneous Revenue
Residential	$14,577,711	$16,411,383	$16,982,230	$1,267,536
GS < 50	$3,301,071	$3,716,300	$3,716,300	$262,161
General Service 50 to 4999 kW	$8,756,683	$9,858,152	$9,155,837	$652,821
Streetlight	$86,467	$97,344	$182,318	$1,284
Sentinel Lights	$8,058	$9,072	$55,565	$556
Unmetered Scattered Load	$127,318	$143,333	$143,333	$1,389
Total	$26,857,308	$30,235,583	$30,235,583	$2,185,747

Allocate Base Revenue to Rate Classes

Table 8-2 Proposed Apportionment of Base Revenue to Rate Classes

Rate Classification	Total Revenue Requirement 2011 Cost Allocation	2011 Proposed Revenue to Cost Ratio	2011 Proposed Service Revenue Requirement	2011 Proposed Misc. Revenue Allocated as per Cost Allocation Model	2011 Proposed Base Revenue Requirement
Residential	$ 21,470,314	85.00%	$ 18,249,767	$ 1,267,536	$16,982,230
GS < 50	$ 3,677,379	108.19%	$ 3,978,461	$ 262,161	$3,716,300
General Service 50 to 4999 kW	$ 6,599,352	148.63%	$ 9,808,658	$ 652,821	$9,155,837
Sentinel Lights	$ 146,591	38.28%	$ 56,121	$ 556	$55,565
Streetlight	$ 383,681	47.85%	$ 183,602	$ 1,284	$182,318
Unmetered Scattered Load	$ 144,014	100.49%	$ 144,722	$ 1,389	$143,333
Total	**$ 32,421,330**		**$ 32,421,330**	**$ 2,185,747**	**$30,235,583**

Exhibit 8 – Rate Design and Other Rates

- Fixed versus variable split – harmonization
- Low voltage rates
- Retail Transmission network and connections rates
- Total Loss Factor
- Transformer Allowance

Niagara Falls – Current Fixed/Variable Split

Table 8-5-NF Current Fixed Variable Split					
Rate Classification	2011 Total Base Revenue with 2010 Approved Rates	2011 Fixed Base Revenue with 2010 Approved Rates	2011 Variable Base Revenue with 2010 Approved Rates	Fixed Revenue Proportion	Variable Revenue Proportion
Residential	$10,310,471	$6,226,019	$4,084,452	60.4%	39.6%
GS < 50	$2,407,495	$1,591,719	$815,777	66.1%	33.9%
General Service 50 to 4999 kW	$5,849,325	$2,108,953	$3,740,372	36.1%	63.9%
Sentinel Lights	$657	$265	$392	40.3%	59.7%
Streetlight	$63,439	$37,121	$26,318	58.5%	41.5%
Unmetered Scattered Load	$104,987	$89,107	$15,880	84.9%	15.1%
Total	**$18,736,374**	**$10,053,184**	**$8,683,190**	**53.7%**	**46.3%**

PenWest - Current Fixed Variable Split

Table 8-5-PW Current Fixed Variable Split					
Rate Classification	2011 Total Base Revenue with 2010 Approved Rates	2011 Fixed Base Revenue with 2010 Approved Rates	2011 Variable Base Revenue with 2010 Approved Rates	Fixed Revenue Proportion	Variable Revenue Proportion
Residential - Urban	$2,576,073	$1,144,356	$1,431,716	44.4%	55.6%
Residential - Suburban	$1,691,167	$625,334	$1,065,833	37.0%	63.0%
GS < 50	$893,576	$192,042	$701,534	21.5%	78.5%
General Service 50 to 4999 kW	$2,907,359	$60,329	$2,847,030	2.1%	97.9%
Sentinel Lights	$7,401	$6,740	$661	91.1%	8.9%
Streetlight	$23,028	$19,404	$3,624	84.3%	15.7%
Unmetered Scattered Load	$22,331	$9,400	$12,931	42.1%	57.9%
Total	**$8,120,934**	**$2,057,605**	**$6,063,329**	**25.3%**	**74.7%**

Current Combined Fixed Variable Split

Table 8-5 Current Combined Fixed Variable Split					
Rate Classification	2011 Total Base Revenue with 2010 Approved Rates	2011 Fixed Base Revenue with 2010 Approved Rates	2011 Variable Base Revenue with 2010 Approved Rates	Fixed Revenue Proportion	Variable Revenue Proportion
Residential	$14,577,711	$7,995,709	$6,582,001	54.8%	45.2%
GS < 50	$3,301,071	$1,783,761	$1,517,310	54.0%	46.0%
General Service 50 to 4999 kW	$8,756,683	$2,169,282	$6,587,401	24.8%	75.2%
Sentinel Lights	$8,058	$7,005	$1,053	86.9%	13.1%
Streetlight	$86,467	$56,525	$29,942	65.4%	34.6%
Unmetered Scattered Load	$127,318	$98,507	$28,811	77.4%	22.6%
Total	**$26,857,308**	**$12,110,790**	**$14,746,519**	**45.1%**	**54.9%**

2011 Proposed Service Charge

Table 8-7 Proposed Monthly Service Charge				
Rate Classification	Total Base Revenue Requirement	Fixed Revenue Proportion	Annualized Customers / Connections	Proposed Fixed Distribution Charge
Residential	$16,982,230	54.8%	562,798	$16.55
GS < 50	$3,716,300	54.0%	52,228	$38.45
General Service 50 to 4999 kW	$9,155,837	24.8%	10,180	$222.81
Streetlight	$182,318	65.4%	148,892	$0.80
Sentinel Lights	$55,565	86.9%	6,722	$7.19
Unmetered Scattered Load	$143,333	77.4%	5,582	$19.87
Total	**$30,235,583**			

2011 Proposed Distribution Volumetric Charge

Table 8-8 Proposed Distribution Volumetric Charge						
Rate Classification	Total Base Revenue Requirement	Fixed Revenue	Variable Revenue	Annualized kWh or kW as required	Unit of Measure	Proposed Variable Distribution Charge before Transformer Allowance
Residential	$16,982,230	$9,314,561	$7,667,669	459,406,923	kWh	$0.0167
GS < 50	$3,716,300	$2,008,133	$1,708,167	121,437,543	kWh	$0.0141
General Service 50 to 4999 kW	$9,155,837	$2,268,164	$6,887,673	1,806,009	kW	$3.8138
Streetlight	$182,318	$119,185	$63,133	20,107	kW	$3.1398
Sentinel Lights	$55,565	$48,302	$7,262	809	kW	$8.9771
Unmetered Scattered Load	$143,333	$110,898	$32,435	2,335,428	kWh	$0.0139
Total	**$30,235,583**	**$13,869,243**	**$16,366,340**			

2011 Proposed Distribution Rates

Table 8-9 Proposed Distribution Rates			
Rate Classification	**Proposed Monthly Service Charge Excl Smart Meter Adder**	**Unit of Measure**	**Proposed Volumetric Distribution Charge incl LV and Transformer Allowance Adjustment**
Residential	$16.55	kWh	$0.0167
GS < 50	$38.45	kWh	$0.0141
General Service 50 to 4999 kW	$222.81	kW	$4.0311
Streetlight	$0.80	kW	$3.1398
Sentinel Lights	$7.19	kW	$8.9771
Unmetered Scattered Load	$19.87	kWh	$0.0139
Transformer Discount		kW	($0.60)

Other Rates for 2011

- Low Voltage Rates – harmonized for both service areas, new to NF customers
- Transformer Allowance – no change
- Retail Transmission Rates – harmonized for both service areas :
- NF customers have an increase in Network rates and a decrease in Connection rates, overall impact for residential = 2.4% increase
- PW customers have an increase in Network rates and a significant decrease in Connection rates, overall impact for residential = -1.6% decrease
- Total Loss Factor (TLF) – harmonized for both service areas:
  - Niagara Falls rate 2011 = 1.056; 2010 = 1.0572
  - Pen West rate 2011 = 1.056; 2010 = 1.0601

Exhibit 9 – Deferral & Variance Rate Rider

- 2010 IRM included a Deferral & Variance Rate Rider for RSVA account balances at December 31, 2008.
- Rate Rider pay back is over 2 years – May 1, 2010 to April 30, 2012
- Rate Rider is different between NF and PW customers – includes pre-merger amounts
- 2011 Rate application includes a Deferral & Variance Rate Rider for both RCVA and RSVA account balances at December 31, 2009
- Rate Rider pay back is over 1 year – May 1, 2011 to April 30, 2012

Deferral & Variance Rate Riders for 2011

USoA Account Number	Deferral and Variance Accounts (Excluding Global Adjustment Sub-Account)	Balance for Disposition	Residential	GS < 50 kW	GS > 50 kW	Sentinel Lights	Streetlighting	Unmetered and Scattered	Total
Group 1 Accounts									
1550	Low Voltage Account	$ (472,199)	$ (159,756)	$ (51,855)	$ (256,656)	$ (175)	$ (2,933)	$ (825)	$ (472,199)
1580	RSVA - Wholesale Market Service Charge	$ (472,557)	$ (159,877)	$ (51,894)	$ (256,851)	$ (175)	$ (2,936)	$ (825)	$ (472,557)
1584	RSVA - Retail Transmission Network Charge	$ 151,976	$ 51,417	$ 16,689	$ 82,604	$ 56	$ 944	$ 265	$ 151,976
1586	RSVA - Retail Transmission Connection Charge	$ (424,470)	$ (143,608)	$ (46,613)	$ (230,714)	$ (157)	$ (2,637)	$ (741)	$ (424,470)
1588	RSVA - Power (excluding Global Adjustment)	$ (850,669)	$ (287,801)	$ (93,416)	$ (462,367)	$ (314)	$ (5,284)	$ (1,486)	$ (850,669)
1588	RSVA - Power (Global Adjustment Sub-Account)	$ 1,152,393	$ 111,625	$ 37,959	$ 999,104	$ 307	$ 1,598	$ 1,799	$ 1,152,393
	Subtotal - Group 1 Accounts	$ (915,526)	$ (588,000)	$ (189,129)	$ (124,880)	$ (457)	$ (11,248)	$ (1,813)	$ (915,526)
Group 2 Accounts									
1508	Other Regulatory Assets - HONI Incremental Capital Charge	$ 4,198	$ 2,210	$ 551	$ 1,406	$ 1	$ 11	$ 20	$ 4,198
1518	Retail Cost Variance Account - Retail	$ 463,917	$ 413,158	$ 40,148	$ 7,748	$ 1,436	$ 37	$ 1,390	$ 463,917
1548	Retail Cost Variance Account - STR	$ 343,178	$ 305,630	$ 29,699	$ 5,731	$ 1,062	$ 27	$ 1,029	$ 343,178
1582	RSVA - One-time Wholesale Market Service	$ 7,330	$ 2,480	$ 805	$ 3,984	$ 3	$ 46	$ 13	$ 7,330
	Subtotal - Group 2 Accounts	$ 818,623	$ 723,478	$ 71,203	$ 18,869	$ 2,502	$ 120	$ 2,451	$ 818,623
	Total for Disposition	$ (96,902)	$ 135,478	$ (117,926)	$ (106,011)	$ 2,045	$ (11,128)	$ 639	$ (96,902)
	Balance to be collected or refunded per year	**$ (96,902)**	**$ 135,478**	**$ (117,926)**	**$ (106,011)**	**$ 2,045**	**$ (11,128)**	**$ 639**	**$ (96,902)**

Deferral/Variance Rate Riders – NF and PW areas

NF

Type	Customer Class	Volume Metric	Approved in 2010 IRM Application EB-2009-0205	Applied for in 2011 COS Application EB-2010-0138	Total Rate Rider for 2011
Deferral / Variance Account	Residential	kWh	(0.0028)	0.0001	(0.0027)
	GS < 50 kW	kWh	(0.0027)	(0.0013)	(0.0040)
	GS > 50 kW	kW	(1.1600)	(0.6119)	(1.7719)
	Sentinel Lights	kW	(1.2973)	2.1482	0.8509
	Streetlighting	kW	(0.5038)	(0.6329)	(1.1367)
	Unmetered and Scattered	kWh	(0.0027)	(0.0005)	(0.0032)
Global Adjustment	Residential	kWh	0.0011	0.0016	0.0027
	GS < 50 kW	kWh	0.0011	0.0019	0.0030
	GS > 50 kW	kW	0.4244	0.6442	1.0686
	Sentinel Lights	kW	0.3939	0.9780	1.3719
	Streetlighting	kW	0.0000	0.6613	0.6613
	Unmetered and Scattered	kWh	0.0011	0.0016	0.0027

PW

Type	Customer Class	Volume Metric	Approved in 2010 IRM Application EB-2009-0206	Applied for in 2011 COS Application EB-2010-0138	Total Rate Rider for 2011
Deferral / Variance Account	Residential	kWh	(0.0064)	0.0001	(0.0063)
	GS < 50 kW	kWh	(0.0065)	(0.0013)	(0.0078)
	GS > 50 kW	kW	(1.9651)	(0.6119)	(2.5770)
	Sentinel Lights	kW	(2.2732)	2.1482	(0.1250)
	Streetlighting	kW	(2.1909)	(0.6329)	(2.8238)
	Unmetered and Scattered	kWh	(0.0064)	(0.0005)	(0.0069)
Global Adjustment	Residential	kWh	0.0007	0.0016	0.0023
	GS < 50 kW	kWh	0.0007	0.0019	0.0026
	GS > 50 kW	kW	0.3116	0.6442	0.9558
	Sentinel Lights	kW	0.2799	0.9780	1.2579
	Streetlighting	kW	0.0000	0.6613	0.6613
	Unmetered and Scattered	kWh	0.0010	0.0016	0.0026

Smart Meters

Year	Smart Meters Installed		Percentage of Applicable Customers Converted	Account 1555			Account 1556	Carrying Charges	Total
	Residential	GS<50 kW		Funding Adder Revenues Collected	Capital Expenditures	Stranded Meters	Operating Expenses		
2006				(87,708)	83,849	-	9,609	(98)	5,653
2007				(159,738)	13,967	-	12,141	(2,764)	(136,394)
2008				(160,790)	-	-	-	(7,690)	(168,480)
2009	5,217		12%	(427,293)	1,450,196	230,762	148,786	(2,641)	1,399,810
2010, to June 30	26,757	1,251	63%	(316,654)	2,626,997	958,531	45,260	1,459	3,315,594
Cumulative, to June 30, 2010	31,974	1,251	74%	(1,152,183)	4,175,010	1,189,293	215,797	(11,734)	4,416,182
Total to be Installed			44,679						

Other notes

- HST impact has been accounted for in both 2010 and 2011
- CGAAP vs. IFRS
- Rate Order – Effective May 1, 2011
- Next Steps include:
  - Media Release
  - Public Notice
  - Interrogatories from OEB staff & Interveners
  - Settlement conference - possible
  - Technical Hearing - possible
  - Oral Hearing - possible

Questions ??????????

Delivery Bill Impacts compared to other 2011 Rate Applications

Other Utility 2011 Rate Impacts					
	Residential			GS < 50 kW	
	$/ month	%		$/month	%
Waterloo North	$ 5.75	18.50%		$ 7.51	13.10%
Kingston	$ 7.17	26.40%		$ 9.78	16.50%
Woodstock	$ 8.01	22.35%		$ 15.62	23.91%
Milton	$ 2.38	7.43%		$ 8.88	14.57%
NPEI - NF	$ 4.86	13.94%		$ 1.03	1.22%
NPEI - PW urban	$ 5.05	16.07%		$ 18.89	32.53%
NPEI - PW suburban	$ 8.20	28.99%			

Sentinel Rates compared to other utilities

Sentinel Rates			
	2011	2011	2011
	Monthly	Distribution	Total Bill/Month
	Service Chg	Charge	incl. HST
		/ kW	
NPEI- NF area 0.12kW	7.19	8.9771	14.40
NPEI - PW area 0.12kW	7.19	8.9771	14.25
Haldimand 0.28kW	7.39	19.0586	21.97
Norfolk Power 0.17kW	6.91	19.6506	18.37
Milton 1.0kW	1.47	11.1018	22.06
Brant County 1.0kW	2.00	21.8402	44.19

Niagara Peninsula Energy Inc.
Budget Report 2011

This report is prepared for the purpose of reviewing the significant factors affecting the 2010 and 2011 projected and budget financial statements respectively.

Please note the presentation of the projected and budget financial statements vary from the external audited financial statements in order to provide enhanced detail.

On October 21st, 2009 NPEI submitted a rate application to the Ontario Energy Board for new rates effective May 1, 2010. Included in the IRM application is regulatory rate rider for the deemed disposition of the retail settlement variance (RSVA) balances as of December 31, 2008. These deferral and variance accounts are used to record the differences between amounts billed to customers and amounts paid by distributors for bill elements such as power, transmission, and regulatory charges. The impact of this rate application to NPEI customers will be to refund accumulated RSVA balances from market opening in 2002 to the end of 2008. The total refund amounts to approximately $7.8M and NPEI has requested that the disposition of the refund take place over a two year period.

The following table outlines the changes to the service charge and volumetric charge from the 2009 rates to the approved 2010 rates.

	2009 Service Charge	2009 Volumetric Charge		2010 Service Charge	2010 Volumetric Charge	$ Change Service Charge	% Change Service Charge		$ Change Volumetric Charge	% Change Volumetric Charge
Niagara Falls										
Residential	16.24	0.0138		15.96	0.013563	(0.28)	-1.72%		(0.00024)	-1.72%
GS<50	48.1	0.0102		47.27	0.010024	(0.83)	-1.73%		(0.00018)	-1.73%
GS>50	285.05	3.0652		280.14	3.012394	(4.91)	-1.72%		(0.05281)	-1.72%
PW										
Residential - Urban	10.15	0.0182		10.04	0.017999	(0.11)	-1.08%		(0.00020)	-1.10%
Residential - Suburban	10.77	0.0135		10.65	0.01335	(0.12)	-1.11%		(0.00015)	-1.11%
GS<50	10.47	0.0178		10.35	0.017604	(0.12)	-1.15%		(0.00020)	-1.10%
GS>50	23	6.4285		22.75	6.357519	(0.25)	-1.09%		(0.07098)	-1.10%

As of October 28, 2010 there are no outstanding grievances with the union.

Projected Balance Sheet
Total assets are projected at $157M, which is up 2% or $3.5M from the 2009 total assets. The majority of this increase is due to the net capital expenditures of $9.7M. Total gross capital expenditures are projected at $10.9M, offset by capital contributions of $1.2M.

Distribution meters were adjusted for the smart meter installation, total cost related to the meters replaced was $3.0M and the cost of the new smart meters put into service was $4.1M. Correspondingly, the accumulated depreciation in the amount of $2.2M related to the old meters was removed from fixed assets and recorded as "stranded meters" in the smart meter regulatory liability section. Total Net Book Value (NBV) of stranded meters as at June 30, 2010 was $1.2M.

Total distribution assets are projected to be $400K less than budget. The original budget was prepared without the impact of the HST ITC. In July of 2010, the rules for the new HST allows for an HST ITC to be claimed where the former PST was included as capital. The HST flow through impacts inventory and material purchases subsequent to July 1, 2010.

Significant capital projects completed in 2010 are as follows:

South Pelham St. Fonthill	691
Minor Betterments – NF	649
Kiosk conversions	512
Demand work of	411
Switchgear replacement	393
Pole Replacements – NF	372
Robinson St-Allendale/Fallsview	335
Pole Replacements – PW	303
Durham Voltage Conversion	269
Murray Street	233
High Street	231
Fernwood estates	205
Oakwood Drive	201
Cherry Avenue	182
Dorchester NS&T to Morrison	180
Minor Betterments – PW	169
Campden DS Feeder Egress/Poles	164
Subdivisions	163
Kalar Catalina to Beaverdams	158
Pelham Municipal Station	148
Mountain East/West Garner	126
Townline Rd @ Canboro relocate	103
	6,198

Total computer hardware additions of $274K includes 74K for the mobile workstations; 125K for servers; 13K for the recording solution and voicemail ports; 25K for teleworks equipment and 22K for PC's and monitors and printers.

Computer software additions are projected at $279K, which includes $83K for workforce management, telephone software $35K, 22K for oracle software licenses; 20K for GP 2010 Dynamics upgrade and 90K for e-billing, DSM and other North Star upgrades.

Vehicle additions are estimated at $824K, which includes a 47' RBD and Fiberglass body which was installed on the 2010 Freightliner MS cab and chassis purchased in 2009, a 46' Material Handling Aerial man lift and Fiberglass body to be installed on the 2010 International 7400 SBA chassis purchased in 2009; a 4X4 pickup half tonne truck and an Off Road Track machine with a C5048 Derrick to assist in the safe maintenance of the vast amount of "off the road allowance poles in the PW service area.

As a result of the conversion of Niagara Falls area residential and GS<50 rate classes from bi-monthly billing to monthly billing in May of 2010 Unbilled Accounts Receivable are estimated to decrease by $1.5M and Accounts Receivable are estimated to increase by $1.0M. Accounts payable are projected to be up 1% over 2009 as the power bill is expected to be higher at the end of 2010 hence increasing the accounts payable at year end. The Due to Niagara Falls Services Inc. is estimated to be lower than 2009 as a result of the monthly payments increasing from $1.4M to $1.8M per month thereby lowering the fourth quarter true up for water and sewer billing.

The current portion of long-term debt has increased by the portion of the new $4.5M smart meter loan.

Regulatory liabilities are projected to increase by $430K over 2009. The retail settlement variance account balances as at December 31, 2008 were included as a rate rider in the 2010 IRM rate application. NPEI received approval to pay back the RSVA balances over a two year period commencing May 1, 2010. The total RSVA liability balance was $7.78M.

Long-term liabilities have increased by the $2.0M. At the end of 2009 the smart meter loan drawn was $500K. Throughout 2010 smart meters were installed and an additional $4.0M was drawn bringing the total smart meter loan to $4.5M. This loan is with Scotia bank and as at September 30, 2010, the loan carries a five year fixed 4.97% interest rate and a ten year amortization period.

The 2009 Incentive Regulation Mechanism (IRM) rate model has a deemed debt to equity ratio of 60:40. Niagara Peninsula Energy's actual debt to equity ratio is projected at 49:51. The above rates are based on a utility with less than $100M in their rate base. NPEI currently does not have harmonized rates for any of their rate classes and as a result the rate base was split proportionately with 2 rate applications filed for 2010. Rate harmonization is addressed in the 2011 rate application.

Finally, in October of 2010 a $500K dividend was declared and paid on a proportionate share basis to the shareholders respectively.

Projected Income Statement

Projected net income after taxes is estimated at $2.6M, which exceeds the 2010 budget, by $224K or 10%. Gross profit is projected to be 1% above the original budget. Total operating expenses including depreciation are projected at $24.7M. This is $283K or 1% below budget. Two reasons mainly account for the variance; depreciation was originally budgeted using a full year's depreciation in the year of acquisition. In 2010, NPEI changed its depreciation calculation to the half year rule in order to better align depreciation and CCA and minimizes the growth of the future tax asset. Secondly, the capital taxes were budgeted at the same level as 2009. Due to changes in the tax legislation, the capital tax rate decreased from 0.225% to 0.15% and capital tax will only be calculated up to June 30, 2010 thereby making the 2010 effective rate 0.075%. The other interest expense is expected to be lower than the 2010 budget amount due to the carrying charges on regulatory liabilities was over budgeted for in 2010.

Offsetting the under-budget general and administration expenses are the Operations and Maintenance expenses and the Billing and Collection expenses. Operations and Maintenance expenses are projected to exceed budget by $196K or 3.0%. Due to the future IFRS changes with respect to the capitalization of indirect costs the stores and garage department were removed from the Overhead calculation and directly expensed in 2010 and pole inspections are expected to exceed budget by $50K. Total billing and collecting labour is over budget by $101K. In 2010, the pay equity plan for the female dominated job classifications was completed by a third party consultant. The pay equity plan resulted in a payment of $49K related to the period from November 1, 2008 to June 30, 2010. This was not budgeted for. Also, two business analysts were hired on contract in August of 2010 accounting for $41K of the budget variance. Programming expenses are over budget by $45K due to an increase in the software and hardware maintenance fees that were unknown at the time of the 2010 budget preparation. Collection expenses are also higher than the budget due to an increase in focus in this area in 2010.

Projected net income of $2.6M plus depreciation of $7.0M totals $9.6M, which forms the basis for reinvestment in capital for the 2011 budget year. In order to maintain a reliable and efficient distribution system the minimum reinvestment in capital should equal the prior year depreciation. Taking into account replacement values exceed the original historical costs and the evolution of increased technology, net income has also historically been reinvested back into the distribution system and technology framework of NPEI.

Budget Balance Sheet

The 2011 budget balance sheet has been prepared with the assumption that NPEI's 2011 Cost of Service Rate application is approved by the OEB.

Capital additions are budgeted at $9.1M and an estimated balance for just the installation of smart meters of $0.5M, totaling $9.6M. The additional smart meter expenditures relate to approximately, 3,000 smart meters to be installed for the GS<50 rate class. The Ontario Energy Board has not ruled on the recovery of the scrapped meter balance. In the event the OEB does not allow for recovery of these scrapped meters then an additional expense of $1.9M before tax will impact the net income of NPEI.

Capital additions related to the distribution system are budgeted at $8.0M, net of capital contributions of $850K.

Major projects include:

- Robinson St. – Allendale/Fallsview – 2010 carryover - $200K
- Underground primary replacement – Lundy's Lane and Ker St - $400K
- Lundy's Lane Line Rebuild – Kalar to Montrose Rd - $500K
- K-M-6 & K-M-2 Extension – Montrose Rd – Mcleod to Canadian Dr. net $450K
- Riall Street Rebuild – St.Paul to Dorchester $290K
- Pad-mounted Switchgear Replacements - $400K
- Kalar Road – Beaverdams Rd to the NS&T ROW - $550K
- Sectionalizing – 4 units -$100K
- Vineland/NWMTS/Beamsville TS feeder sectionalizing - $100K
- Municipal Substation Rehab – Smithville - $500K
- Line Relocations due to Municipal Road Work requirements – net $300K
- Pole Replacement – combined Service Area - $1.3M
- OH line rebuild of deteriorated facilities - $800K
- Kiosks replacement $500K
- Minor betterment allowance – combined Service Area - $500K
- Subdivisions – combined Service Area – net $350K
- Demand projects – combined Service Area – net $900K
- Metering – wholesale meter points - $200K

Detailed descriptions of these capital projects can be found in the 2011 Capital projects section.

Other Capital Additions

Continuing to invest in information technology by building redundancy and core systems are the IT strategies behind the computer hardware and software budget amounts. Hardware and software budgeted additions address the business needs of various operations of NPEI and improve efficiency and reliability of the data being generated from an operational viewpoint. Improved network infrastructure; workforce/outage management implementation; phone system implementation; enterprise solutions such as update and implementation of web based tools linked to the website providing for bill and usage presentment (Ecare), along with the deployment of web based tool Mcare,

as well as, GIS tools into the field using ruggarized laptops in operations and metering; upgrade of PC's and printers due to age and use. Hardware additions are budgeted at $292K.

Software additions of $183K include $75K for the balance of outage management implementation and licenses, $85K for billing and customer account presentation on the web.

Vehicle replacements are budgeted at $463K. In order to maintain an efficient, safe and reliable fleet, NPEI is committed to replace 2 trucks per year whereby the cab and chassis are purchased in year one with the body of the truck purchased in the following year. The lead-time for the body of these larger vehicles is approximately one year.

The 2011 fleet additions include: 46ft Material Handling Aerial Man lift and fiberglass body to be installed on a 2011 chassis; 48ft, 5th wheel, Gooseneck style trailer to transport the off road track machine purchased in 2010; 2011 cargo van for the engineering department to replace the 2000 GMC Safari van; 2011 pole carrying galvanized extendable trailer and a 47ft radial boom derrick (line truck) to be installed on a 2011 cab and chassis.
For additional details related to other capital asset additions please see Appendices A through E in the Capital 2011 section.

Liabilities and Shareholders Equity

Accounts payable have increased by $1.2M or 5% over the Projected 2010 balance mainly due to the HST impact on the year end power bill. In 2011, the power bill is now subject to HST or 8% higher than the 2010 year end power bill.

The budgeted long-term liabilities have decreased by $2.1M due to the repayment of the principal amounts on the three loans held by NPEI.

The last item of notation for the balance sheet is the budgeted dividend payment of $500K to each of the respective shareholders on a proportionate share basis which is presented on the Statement of Retained Earnings.

Budget Income Statement

Revenue

Distribution revenue for 2011 was budgeted using the 2010 rates for the first four months and eight twelfths of the 2011 rates being applied for in the 2011 Cost of Service Rate Application. The 2011 distribution revenue is based on weather normalized kWh purchases and a 1.7% growth rate in customer count. The flow

through revenues for example, power, wholesale market, network and connection charges were calculated using the load forecasts and rate application rates. Total cost of power is budgeted at $99.99M.

Other revenue was budgeted at the same level at the projected 2010.

Expenses

Total OM&A expenses budgeted are $17.1M in 2011 and budgeted depreciation excluding depreciation related to the fair market value bump on assets of $ 7.1M. Budgeted OM&A expenses are $516K or 3.1% higher than the projected 2010 OM&A expenses. Distribution expenses are budgeted $205K higher as a result of a new engineering supervisor position to be filled, increase in the number of pole inspections, and a historical wage increase of 3%. General and Administration expenses are budgeted at the same level as 2010. A historical wage increase of 3% was calculated for G&A which was offset by a decrease in capital taxes due to changes in tax legislation. Interest on long-term debt was budgeted at $90K less than the 2010 level and utility costs were budgeted at $40K lower than the 2010 amount due to the 2010 total includes the utility costs for 2009 related to the Smithville service centre. Billing and Collection expenses are budgeted $312K higher than 2010. The two business analysts are budgeted for a full year in 2011, the billing supervisor is not budgeted for another five month medical leave in 2011, and two additional customer service/billing clerks are budgeted for a full year in 2011 versus partial years in 2010 due to medical leaves.

In conclusion, NPEI has continued to maintain the level of distribution expenses and still provide safe reliable electricity to its customers using a proactive preventive maintenance approach. Continued investments in NPEI's employees, distribution infrastructure, capital fleet and technology will contribute to the company's many future successes.

Recommendation:
I respectfully recommend approval as follows:

1. The 2011 Capital budget of $9,603,000 be approved, this is comprised of net distribution additions $7,980,000, information technology and fleet expenditures of $1,123,000 and smart meters estimate of $500,000.

2. The 2011 total operating expenditures in the amount of $25,306,000 including depreciation and depreciation related to the fair market value bump be approved.

PROPOSED N.P.E.I 2011 CAPITAL BUDGET PROGRAM

1. Expansions and Reinforcement of the N.P.E.I. 13.8 K.V. / 27.6 K.V. Primary Distribution System to accommodate load growth & reliability requirements.

- **Underground Primary Extension-Robinson St.—Allendale to Clarke**

Construction on this project started in 2010. Due to increasing load growth & proposed Development within the Fallsview Tourist/Commercial Core the introduction of an additional Feeder into the Network is required. The proposal would include the construction of a 600 Metre long duct bank for extension of a 600 Amp 13,800 Volt distribution feeder using the Murray Station 3-M-54 from the existing double circuit pole line in the Hydro One Corridor to the manhole/switchgear assembly @ Station #33 on Fallsview Blvd., continuing to a new Manhole/Switchgear assembly on Clarke Ave, including replacement of high voltage Switchgear at Old Stone Inn Stn. #48 and modifications to the Budget Inn Stn. #120. The Construction will provide load relief & alternate buss supply to Loads currently supplied by the 3-M-29 Feeder.

Estimated Cost = $ 200,000.00 -- NF Service Area

- **Underground Primary Replacement-Rear Lot Lundy's Lane and Ker St.**

Due to approaching end of life cycle and inherent operational issues of the legacy construction within the Commercial Core between Drummond Road & Franklin Ave a replacement of the Underground Network is required. The proposal would include the introduction of multiple points of supply from the recently rebuilt line on Kerr Street, construction of a 450 Metre long duct bank for extension of 200 Amp 13,800 Volt distribution feeders using the Murray Station 3-M-51. The Construction will eliminate existing switchgear assemblies @ Station #25, Station #53, Station #38, & Station #21, and provide the 13.8 KV source for future High St. voltage conversion.

Estimated Cost = $ 400,000.00 --NF Service Area

- **Lundy's Lane Line Rebuild—Kalar Road to Montrose Road**

The project scope includes the replacement of plant based upon preliminary design submissions for Municipal Consent in 2010 to replace the 1.0 K.M. of directly buried underground feeder with an overhead Pole Line. Equipment replacements are required due to a number of cable faults, which have been experienced on this section of feeder, which is approaching end of life cycle. The replacement includes extending the existing K-M-7 13.8.KV 3-phase line on concrete poles on the North side of Lundy's Lane between Kalar & Montrose Road.

Estimated Cost= $ 500,000.00 -- NF Service Area

- **K-M-6 & K-M-2 Extension--Montrose Road-McLeod to Canadian Drive**

Due to increasing residential load growth & proposed Smart Centre Developments within the Area currently serviced by the Murray T.S. 3-M-30, the scope involves an extension of double circuit overhead line using Kalar M.T.S. Feeders K-M-6 & K-M-2, from the existing dead-end at McLeod Road, projecting south on Montrose Rd. to the Highway crossing opposite Niagara Square. Construction is in conjunction with the relocation of

the Pole Line on Oakwood Drive, due to Road works for the Smart Centre currently under construction. Benefits include additional circuit inter-tie capabilities between Kalar & Murray Transformer Stations circuits for Feeder load balancing and contingency options.

Estimated Cost= $ 600,000.00 (recoverable $150,000) --NF Service Area

- **Riall Street Rebuild—St. Paul Ave to Dorchester Road**

Project scope involves the replacement of a section of existing directly buried 12-M-33 15KV underground primary cable from Stanley T.S. with an overhead Pole Line. Equipment replacements are required due to the plant approaching end of life cycle. The project also includes the rebuild of an existing 4.16KV 3-Phase pole line on the north side of Riall Street, to a 3-phase 13.8KV level, which will replace the Underground, and eliminate the 4.16KV radial-feed providing a 8.0 K.V. source to recently rebuilt lines between Riall & Stamford Green Drive. Approximately 30 new 45' poles & 1.0 KM of 556 MCM conductor will be required.

Estimated Cost= $ 290,000.00 -- NF Service Area

- **Pad-mounted Switchgear Replacements**

Results of the Underground Equipment Inspections Program have identified the requirement for the replacement of pad-mounted switchgear units, which will continue from the 2010 Program at a rate of 4-Units per year. The project scope includes the installation of manholes and other civil works associated with the equipment replacements to current standards.

Estimated Cost= $ 400,000.00 -- NF Service Area

- **Kalar Road—Beaverdams Rd. to the NS&T ROW**

The rebuild of 1600 Metres of existing K-M-3 15 KV single circuit 3-phase pole line between Beaverdam's Rd. and the NS&T R.O.W with a double circuit concrete pole line built on the West side of Kalar Road using the K-M-3 & K-M-7 Feeders sourced from Kalar M.T.S.. Construction required is in conjunction with circuit extensions completed for CNF road widening works between Lundy's Lane & Beaverdam's Rd., the age of existing plant, clearance issues, and requirement of an additional circuit for inter-tie capabilities to Stanley T.S. circuits 12-M-32 & 12-M-42 for Feeder Load Balancing and Contingency purposes. 28-new poles & 556 MCM conductor.

Estimated Cost= $ 550,000.00 -- NF Service Area

- **Sectionalizing—4-Units**

The review of existing feeder configurations, which egress from Stanley & Murray T.S. & Kalar M.T.S. has identified the requirement for the installation of 4-additional pole mounted ganged load break switches within the system, to provide circuit sectionalizing during outage events, to minimize the area affected.

Estimated Cost= $ 100,000.00 -- NF Service Area

Vineland/ NWMTS/Beamsville T.S. Feeder Sectionalizing

The review of existing feeder configurations, which egress from Vineland D.S. has identified the need for installation of additional sectionalizing equipment for improved contingency options, utilizing pole mounted ganged load break switches.

Estimated Cost= $ 100,000.00 -- PW Service Area

- **Municipal Substation Rehabilitation**

Replacement of the 27.6/4.16 kV Distribution Station equipment supplying the Town of Smithville. This work includes a new 27.6/8.32/4.16 kV 5000 KVA Transformer (which could be moved elsewhere on the System in the future), and new protection equipment. All equipment will be located within the existing compound after the present equipment is isolated and removed.

Estimated cost: $ 500,000 -- PW Service Area

2. Line Relocations due to Municipal Road Work requirements.

An allowance is maintained for the construction of new distribution facilities to correct conflicts with planned road works by the M.T.O., Regional Municipality of Niagara and the various Municipal Agencies within the Service territory. Additions and reinforcement to the distribution system resulting from new construction requests fall under this budget allowance.

Estimated Combined Service Area Costs: $400,000 (recoverable $100,000)

3. Replacement of Poles identified with limited Structural Integrity.

Natural degradation of wooden utility poles is an ongoing issue that is monitored through a 5-year cyclic field evaluation process and addressed by replacing subject poles through this budget program. In the Niagara Area pole replacements are beginning to level off since the cycles are beginning to repeat, with a structured treatment program being implemented during the testing cycle to increase the Poles Life Cycle. The 2011 test area is bounded in the West by the City Limits, South to the Hwy #420/Lundy's Lane, and East to Stanley Ave, North to Thorold Stone Road and all the area south of the Welland River. Western Service Territory testing area would be the Westbrook Road to the west, north to Twenty Road, East to Church/Allen Road, south to the Boundary line at South Chippawa Road. It is anticipated that 60 poles will be identified for replacement, with about 150 Poles reaching the "replace within 5-years" milestone within both service territories. The cost per pole change is expected to average $ 3,000.

Estimated Costs: $1,250,000 --Combined Service Area

4. Required overhead line rebuild of deteriorated facilities identified by the pole condition survey.

This rebuild program is directed at overhead distribution facilities identified as nearing the end of life expectancy. In these locations the existing overhead distribution facilities will be replaced with new overhead plant that will incorporate new poles, conductors and transformation to maximize efficiency, reliability and the capability of conversion to a

higher distribution voltage when and where practical. For 2011 this program targets approximately 5 kilometers of urban distribution line requiring 150 pole changes, the installation of new single phase primary and secondary circuits, 30 distribution transformer replacements and results in upgraded supply to about 400 residential customers.

The areas identified for rebuilding in 2011 include;

- Portions of 9 streets in the area contained by Dunn Street, Drummond Road, Symmes and Main Street.

Estimated cost: $800,000.00 ***-- NF Service Area***

5. Replacement of Submersibles & Kiosks with EFD switches and posi-tects.

The Kiosk replacement program is an integral part of our underground system rehabilitation/replacement program. These locations represent the transformation, sectionalizing and circuit protection components of the underground network. As these legacy components are replaced with modern devices, safety, reliability and service quality are significantly improved. In 1994 the kiosk replacement program was initiated with 725 locations identified for replacement. At the current rate of replacement it will take approximately 10 years to complete this task. The locations are prioritized by the results of a Conditional Assessment Survey completed in 2008, which will be repeated on a 5-year cycle as required. 71-Units remain on the 15KV System 4 were converted in 2009, and 101-Units remain on the 5KV System 4 were converted in 2010. For 2011 the plan is to replace 10 to 15 units.

Estimated cost: $500,000 ***-- NF Service Area***

6. Minor betterment allowance.

An allowance for minor capital work initiated by unexpected failures of overhead and underground distribution facilities is provided in the annual budget. Unplanned underground cable replacements due to repeated failures are the predominant item covered by this allowance. Minor overhead distribution system modifications and component replacements are also accounted for within this allowance.

Estimated cost: $ 300,000 **(NF Area)**

Estimated cost: $ 200,000 **(PW Area)**

7. Subdivisions and new residential services

Estimated cost NF Area: Lot servicing of existing	**$100,000**
Connection and energizing of new subs	**$150,000**
Lot connection rebates	**$75,000**
Recoverable	**($150,000)**
Estimated cost PW Area: Lot servicing of existing	**$100,000**
Connection and energizing of new subs	**$150,000**
Lot connection rebates	**$75,000**
Recoverable	**($150,000)**

8. Demand based system reinforcements for new commercial service connections and expansions.

An allowance is maintained for the construction of distribution facilities to service new commercial customers requesting connection. Additions and reinforcement to the distribution system resulting from new customer connection requests fall under this budget allowance.

Estimated Combined Service Area Costs: $1,200,000 (recoverable $300,000)

9. Metering The metering capital budget includes the typical revenue metering costs associated with new customer installations. Wholesale meter point upgrades where required and are included in this budget item.

New installations and replacements	$200,000

Project Total	**$9,140,000**
Total Recoverable	**($850,000)**
Total Distribution Capital Budget before HST impact	**$8,290,000**
Less HST impact on Materials	**($ 310,000)**
Total Distribution Capital Budget	**$7,980,000**

Note the HST impact is related to material costs.

9. Other Capital Expenditures as listed below net of HST impact:

Office Furniture & Equipment (Appendix A)	$ 93,000
Computer Equipment Hardware (Appendix B)	$292,000
Computer Software (Appendix C)	$183,000
Vehicles (Appendix D)	$463,000
Tools, Shop & Garage Equipment (Appendix E)	$ 93,000
	$1,123,000
TOTAL	**$9,103,000**

Schedule A – General Equipment

Outside Storage Bin	$ 15,000
PA System Equipment	$ 20,000
Ergonomic Office Equipment	$ 10,000
Photocopier - Engineering	$ 25,000
Photocopier – Fax Room	$ 20,000
General Equipment	$ 3,000
	$ 93,000

Appendix B – Computer Hardware

	Item	Purpose	#	Approx Cost
HARDWARE				
Network	48 Port Nortel Switch	Hot Spare - Data - PW	1	$ 5,500.00
	Proxim Wireless Access Points (quantity to be determined by designer)	Motorola 810 requirement for fleet communications (laptops in trucks)	1	$ 600.00
				$ 6,100.00
Servers	Server	Backup servers	3	$ 33,000.00
	Server	Migration server for G and Inservice	1	$ 13,000.00
	Server	Laserfiche/Lexus	1	$ 20,000.00
	Equallogic SAN for Smithville	Extra storage	1	$ 65,000.00
	Harris to Move Billing from IBM to Dell Blade	Optimization Maintenance		$ 17,500.00
	Consolidate Informix / Jboss on 1 Server	Optimization Maintenance		$ 17,500.00
	Web Server	Intranet, web based applications	1	$ 9,500.00
				$ 175,500.00
Printers				
	Replacement of T620	Replacement of current T620	1	$ 2,500.00
	Lexmark	Printer for Sue F	1	$ 1,000.00
	Lexmark	Printer for Suzanne	1	$ 650.00
				$ 4,150.00
Phones	Professional Services	Integration of phone system to CIS/Outage Management/IVR	1	$ 25,000.00
Rebudget from 2009	Recording Solution	Archive of Calls,etc	1	$ 8,000.00
	Mitel Headset	Ease of answering calls hands free	3	$ 1,095.00
	Bluetooth phone	handsfree for cell phones	25	$ 3,000.00
				$ 37,095.00
PC / Monitor	PC Replacements	Add PCs as required	10	$ 7,000.00
	Motorola 810	Deployment of Inservice field use in Operations, and mcare in Metering	6	$ 55,000.00
				$ 62,000.00
LCD Projectors	NEC VT595 XGA 2000 ANSI LUNCENS PROJECTORS	Niagara Falls and West Lincoln Training Room LCD Projectors (not mounted)	2	$ 1,260.00
				$ 1,260.00
Equipment	Radix Handhelds	Meter reading	1	$ 3,250.00
	Northrup Probes	Meter reading	1	$ 2,285.00
	Verseprobe battery charger	Meter reading	3	$ 360.00
				$ 5,895.00
TOTAL HARDWARE				**$ 292,000.00**

Appendix C – Computer Software

SOFTWARE				
	Item	**Purpose**	**#**	**Approx Cost**
Customer Service	Interactive Queue	Realtime monitoring of ACD reps and allocating them real time	1	$ 8,500.00
Customer Service	Visual Queue	Interactive routing of calls based on metrics in system	1	$ 2,300.00
Customer Service	Alertworks	Automated voice call back and survey for power outage, collections, scheduled maintenance	1	$ 10,500.00
Operations	Work Management/Outage Management Intergraph solution including software and professional services for installation and training	Work/Outage Management - TA module including primary and redundant including professional services	1	$ 75,000.00
Operations	Work Management/Outage Management Mobile software solution (inService mobile client)	Work/Outage Management	6	$ 1,800.00
Operations & Engineering	Autocad licenses	Per User License	8	$15,000.00
Operations	VPN solution	Fleet rollout	1	$1,250.00
	Adobe Read/Write license	New requirement	2	$ 2,500.00
	DoubleTake for Linux	Needed for Billing Servers migration	1	$ 15,000.00
	File Nexus Solution	Replacement of Laserfiche	1	$ 51,150.00
TOTAL SOFTWARE				**$ 183,000.00**

Appendix D
Vehicles 2011

1) Purchase of a 46ft. Material Handling	
Aerial Manlift and Fiberglass Body to be installed	
on a 2011 chassis	**260,000**
2) Purchase of a 48ft, 5th Wheel, Gooseneck	
StyleTrailer to transport the Off Road Track Machine	
purchaseD in the 2010 budget.	**54,760**
3) Purchase of a 2011 Cargo Van for the	
Engineering Department to replace vehicle number 22	
which is a 2000 GMC Safari Van	**34,040**
4) Purchase of a 2011, Pole Carrying	
Galvanized ExtendableTrailer, (8300kg) with Tandem Axle .	**35,000**
5) Purchase of a 47ft Radial Boom Derrek	
(line truck) and Fibreglass Body to be installed on the 2011	
cab and chassis (purchased in 2011) with the remaining	
balance ($200,000.00) to be paid in 2012.	**80,000**
	463,800

Appendix E
Tools Budget 2011

1) Lanetamer Sign System (Traffic)	6	@	$333	2,000
2) Hastings 6790 High Voltage Amp Meter	2	@	$1,000	2,000
3) Gas Drill	1	@	$500	500
4) Volt Meters	6	@	$300	1,800
5) Fiber Cover-up	20	@	$160	3,200
6) Tampers	2	@	$1,200	2,400
7) Megger (Insulation Resistance Tester) 1kv model # MIT 310-EN	4	@	$625	2,500
8) Hydraulic Drills	4	@	$2,000	8,000
9) P.I.'s	4	@	$1,500	6,000
10) Phasing Sticks	3	@	$2,200	6,600
11) New and Replacement line tools				20,000
12) Insulated Cls 3 and Cls 4 Line Hose,				10,700
Insulated Cls 4 Large and Small Blankets,				
Cls 4 Insulated Hoods (Most of the order is for the trucks				
in the Smithville location and is required to maintain				
ample cover-up on the trucks during the required annual				
testing of insulated cover-up. The remainder is to meet				
the minimum order requirement by the supplier.				
13) Safety Grounds and Related Equipment				12,300
14) Tools for new line truck				15,000
Total Tool cost for 2011				93,000

Appendix E
Costs/Savings Monthly Billing

NPEI
Cost and Benefits for Monthly Billing
2010

		(Savings)/Costs
Postage	Residential customers converte	30,400
	GS<50 customers converted	2,287
	Total customers converted	32,687
	Cost of postage	0.52
	Additional bills	6
		101,983
Envelopes	Total customers	32,687
		0.029
		6
		5,782
Bills	Total customers	32,687
		0.0175
		6
		3,432
Bad Debts	reduction in 2010	(100,000)
Due to Final Bill being only a one month value vs bi-monthly	estimate	
Unbilled Revenue Reconciliation & Power variance reconciliation		(37,800)
Reminder Notices	# of notices	15,000
	Notice & Envelope	0.047
	# times per year	6
		(4,228)
Interest on Cash Flow	Change in Unbilled to Billed to Cash	(3,000,000)
	per annum rate	0.02
		(60,000)
Net (Savings)/Cost		(90,831)

Appendix F
Internal Memo

Memorandum

To: **Board of Directors**

Cc: Brian Wilkie, CEO

From: **Suzanne Wilson, VP Finance**

Date: **2/11/2011**

Re: **Cost and Benefits of Residential Monthly Billing**

Currently residential customers in the Niagara Falls territory are billed bi-monthly or approximately every 60 days and residential customers in the Peninsula West territory are billed monthly or approximately every 30 days. Niagara Falls residential customers are billed on the Harris billing software and Peninsula West residential customers are billed on the Advance billing software. Efforts of conversion of the Peninsula West customers from Advance to Harris have been on going with an expected conversion go-live date of September 25th, 2009.

Niagara Falls residential customers receive a benefit of having their electric and water bills combined onto one bill and in one envelope. The billing costs related to processing the water portion of the bill is paid for by the City of Niagara Falls via the Niagara Falls Hydro Services Corporation. The incremental costs of monthly billing are as follows; envelope, pre-printed bill, paper for journals, postage and ink cartridges. These incremental costs total approximately $106,000 annually with the electric portion totaling $53,000 annually.

The benefits of monthly billing are numerous. First, cash flow increases for both the collection of electric and water usage by 30 days. This increase in cash flow represents approximately $55,000 of interest on cash held in our bank account at approximately 2% annually. A savings of approximately $5,000 annually in reminder notices not having to be printed and mailed. A reduction in doubtful accounts of approximately $4,800 as well as reduced collection costs annually. Two additional benefits are the accounting reconciliations for unbilled revenue and power purchased are currently very complex and time consuming. The annual cost for these two reconciliations is approximately, $47,000. The power bill is received monthly for all customers of NPEI, however it is very difficult to reconcile monthly billed Peninsula West customers and a mix of monthly and bi-monthly billed Niagara Falls territory customers. As an approximate total benefit of $111,800

annually, the net result is an estimated savings per year of $58,800.

With respect to the timing of converting Niagara Falls bi-monthly customers to monthly, I recommend the billing commence May 1, 2010 for two reasons; first, NPEI's 2010 electricity distribution rates become effective May 1, 2010 and secondly, March and April are historically the lowest consumption months thereby reducing any high dollar impacts to residential customers.

As an example, a customer whose billing period in 2009 is from March 13th to May 13th were billed on June 4th with a due date of June 22nd. Actual reading May 14th to July 14th, were billed on August 11th with a due date of August 27th.

In 2010, the scenario would be as follows; Actual reading for 2 months March 13th to May 13th, billed June 4th, due date June 22nd, estimated reading May 14th to June 14th, billed July 5th, due July 21st, actual reading June 15 to July 13th, billed August 3rd, due August 16th. This customer benefits by having 2 smaller payments on July 21st and August 16th versus one large payment on August 27th as in 2009.

One-time conversion costs for customer communication; public notices and advertising would be incurred in early 2010 and budgeted for in the 2010 operating budget. This amount would be determined and approved by the Board at such time.

If you have any questions, please do not hesitate to contact me at 905-353-6004.

Sincerely,

Suzanne Wilson, VP Finance

Appendix G
Strategic Plan

NIAGARA PENINSULA ENERGY
STRATEGIC PLANNING SESSION - REPORT
JANUARY 2008

"PLANNING OUR NEW FUTURE"
For 2008 to 2010

BOOKER & ASSOCIATES

Prepared by Fay Booker, Booker & Associates Inc.
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Executive Summary

Niagara Peninsula Energy came into existence on January 1, 2008 as a result of the merger of Niagara Falls Hydro and Peninsula West Utilities. It was important for the new organization to establish its mission, vision, values and strategic directions. This report captures the discussions and outcomes of the Board and management planning session held on January 23.

Mission: We deliver safe, efficient and reliable electricity through dedicated employees in an environmentally sustainable and technologically focused manner. We provide excellence in customer service and respond to the needs of our communities.

Vision: Delivering environmentally responsible and sustainable energy for the future of our communities.

Values: We will conduct ourselves with commitment to the values of:

- Integrity – we are ethical and our actions are truthful and trustworthy
- Fairness – we treat everyone equally and free of bias
- Responsible – we provide services with safety first for our customers and employees
- Respect – we listen to each other and see value that each member of the team brings and respect the needs of our stakeholders
- Transparent – we are open and accountable for our actions and decisions.

Strategic Directions: By 2010, Niagara Peninsula Energy will:

From our customer and community perspective:

- ✔ Be known for excellence in customer service
- ✔ Be known for continuous reliability of supply and service
- ✔ Be respected for its contribution and presence in the community

From our staff's perspective

- ✔ Be known as a place where are our staff are motivated and empowered
- ✔ Be known for its safe work environment

Operationally, we will:

- ✔ Have met all the benefits and mandate articulated as the basis for the merger
- ✔ Have grown our customer base

Financially, we will

- ✔ Maintain our financial strength while planning for the future.

Next Steps

The next steps in the strategic planning process are:

- Share the mission, vision, values with the staff – the discussion should center on what the mission and vision means to each employee; dialogue with the staff to determine if the values are shared. The strategic directions and measures also need to be shared to build understanding and, through the performance system, employees can align their individual position objectives with the corporate directions. It would also be valuable to hear from the employees what they see as the strengths, weaknesses, opportunities and threats.
- Develop action items for 2008, 2009, 2010; identify who is responsible for items (a template for the development of the action plan is provided in appendix A)

Introduction

Niagara Peninsula Energy came into existence on January 1, 2008 as a result of the merger of Niagara Falls Hydro and Peninsula West Energy. Niagara Peninsula Energy provides electricity distribution and related services to approximately 50,000 residential and business customers in the City of Niagara Falls, Town of Lincoln, Town of Pelham and Township of West Lincoln. The new company is owned jointly by these four municipalities. The merger was the culmination of three years of process and discussion between the two predecessor companies.

It was important to develop at the outset of the new organization its mission, vision, values and strategic directions. This will provide the direction for all staff and Directors to rally around for the benefit of Niagara Peninsula Energy. Having the mission, vision and strategic directions establishes the parameters for the alignment of work effort and investment.

A day long strategic planning session was held on January 23, 2008 and attended by the Board members and the management team. The focus of the strategic planning session was to plan the future of Niagara Peninsula Energy for the benefit of all stakeholders: customers, employees, community, and shareholders.

Organization of Strategic Planning Session

The overall session was organized to cover the following:

- Review the business context in which Niagara Peninsula Energy is operating
- Develop the mission, vision and values of Niagara Peninsula Energy
- Identify the strengths of Niagara Peninsula Energy that can be leveraged and the weaknesses that need to be overcome
- Identify opportunities that can be seized through the efforts of the company and the threats that the company must recognize and prepare for
- Develop the strategic directions that the company should be organized around for the 2008 to 2010 period
- Identify measures to be used to ensure that the company makes progress on the strategic directions

Business Context

In setting its strategic direction and establishing the actions to be followed, organizations need to understand the current business context in which it is operating. The items that impact strategic direction generally include the following: consumer changing preferences, employee changing perspectives and preferences, the economy, technology, industry changes, and regulatory changes. For Niagara Peninsula Energy at the current time, the recent merger is also an important part of the business context.

Following are highlights of the current business context for Niagara Peninsula Energy (this is not an exhaustive list).

Consumers

- Looking for greater ease of doing business with organizations
- Want to deal with organizations that they can trust
- See electricity as essential part of minute to minute daily activities – assume it is always there
- Global weather change has become a major issue
- The environment has become the public's number one concern
- Expectations that everyone will do their part to preserve the environment
- High expectation of hydros to be enabler of improving the current environmental challenges

Employees

- Current demographics – more retirement (greying of the population with 1,000 Canadians per day turning 60) and less people coming into the workforce causing a skills shortage
- Higher number of people in sandwich generation
- New employment perspective – new generation of employees do not have same patience with their careers as retiring boomers
- New employment patterns (multiple careers, longer careers, remote worker, project workers)
- Pace of work environment is creating strain on managers and employees
- Overall – higher stress generally in society and in the work place

Economy

- Significant changes in the economy of Ontario – slowing of growth
- Canadian dollar at par with US dollar –impact on manufacturing, retail and tourism sectors
- Impact if US focuses on improving its domestic market and targets moving jobs to the US
- The changing manufacturing sector in Ontario and in particular the change in ownership of major companies

General

- Operating in a faster changing business environment
- Speed of change – much of which is driven by technology
- Speed of change is accelerating
- Business landscape is more chaotic, confusing, complex
- Be prepared for unknown – e.g. banks taken by surprise when grocery stores got into the banking business

Merger

The application for approval of the merger of Niagara Falls Hydro and Peninsula West Energy included the following benefits that are expected to be derived:

- Elimination of duplication and achieving economies of scale
- Improve utilization of existing resources
- Improve reliability of local electricity distribution, enhance customer service, greater emergency response capability
- Greater financial ability to invest in infrastructure
- Improve ability to respond to emerging business opportunities and complexities in electricity market

Additional factors specific to Niagara Peninsula Energy

- Staff needs – line apprentice needs; finance department
- Additional merger potential in neighbouring market place
- Acquisition potential for some business in the area
- Need to understand expectations of shareholders (e.g. dividends)
- Impact of smart meters
- Need to work through merger and transition – impact on employees, operations, customers
- Maintaining currency in technology

Mission, Vision, Values

Group work at the planning session resulted in the development of the following mission and vision statements and articulation of values.

Mission: We deliver safe, efficient and reliable electricity through dedicated employees in an environmentally sustainable and technologically focused manner. We provide excellence in customer service and respond to the needs of our communities.

Vision: Delivering environmentally responsible and sustainable energy for the future of our communities.

Values: We will conduct ourselves with commitment to the values of:

- Integrity – we are ethical and our actions are truthful and trustworthy
- Fairness – we treat everyone equally and free of bias
- Responsible – we provide services with safety first for our customers and employees
- Respect – we listen to each other and see value that each member of the team brings and respect the needs of our stakeholders
- Transparent – we are open and accountable for our actions and decisions

Strengths and Weaknesses

In order to move forward in the future we need to recognize the strengths of the company and leverage those while recognizing the weaknesses and finding ways to overcome the weaknesses. The Board and management group identified the following strengths and weaknesses of Niagara Peninsula Energy.

Strengths	Weaknesses
Dedication of employees	Lacking specific skill sets
Safety standards and initiatives	Retiring workforce
Pro-active technology (processes, strategies)	Lack of succession planning
Good leadership at the top	Communications – internal, external
Financially sound	Facilities, trucks – environment, age
Responsiveness to customers (solving outage, personal – face to face)	Servicing multiple areas – challenges, geography
Capital investment	Stress in work environment
Union relationships	CDM policies (communication)
Respected in the industry	Phone system (access, resolution, response)
Respected in our community	Strain to meet regulatory compliance
Regulatory compliance	Email – volume, stress
Service provider to the city	Outage management program
Well trained safety oriented dedicated staff	Clarification of shareholder expectations
Policies & procedures & standards	Harmonizing policies, procedures, standards
Sufficient equipment fleet and tools ratio	Inventory control
Strong financial capital investment	Regulatory challenges & involvement
Robust engineering system/GIS load modelling systems	Long lead times for equipment and procurement
CVP compliance (part of regulations)	Increasing cost of material & technology
Captive customers	Geography and operational voltage levels
Reliable delivery of energy	Rate harmonizing and conditions of service
Growing communities	Age of resources – employees, assets
Fiscally sound	Capital long term planning (i.e. >5 years)
Municipal ownership relationship	
Billing and accounting & GIS systems	

Opportunities and Threats

The group identified the opportunities that are available to Niagara Peninsula Energy and the threats that need to be recognized and actions taken to prepare for.

Opportunities	Threats
Amalgamations – expansion through mergers, acquisitions	Smart meters – conservation, CDM revenue loss
Service provider, i.e. billing other LDCs	Self generation
Generation	Supply shortage
Co-generation	Conservation
Hydro One asset/customer purchase	Lack of skilled labour force
CDM	Turnover
Smart meters, i.e. remote disconnect	Takeovers
Municipal sharing of services, i.e. tree trim	Regulatory uncertainty
Employment, training opportunities to grow workforce	Government vision changes, change in government goals
Growth in infrastructure	Buy out, sale of utility to third party
Shared services, future mergers	Additional regulatory requirements
	Economy
	Aging workforce
	Material availability
	Reduction in need for distribution system
	Regulatory strain

Strategic Directions

Considering the business context;
considering Niagara Peninsula Energy's new mission and vision;
knowing Niagara Peninsula Energy's strengths and weaknesses;
recognizing the opportunities and threats;
the following are the strategic directions that will be the focus for Niagara Peninsula Energy for 2008 to 2010. These are the directions under which the activities and investments of the company will be aligned. During the session the importance of keeping the organization balanced and working towards the perspective of all stakeholders was discussed and as a result the directions have been established in a balanced approach.

By 2010, Niagara Peninsula Energy will:

Customers & Community	**Personnel**
✔ Be known for excellence in customer service ✔ Be known for continuous reliability of supply and service ✔ Be respected for its contribution and presence in the community	✔ Be known as a place where are our staff are motivated and empowered ✔ Be known for its safe work environment
Operations	**Financial**
✔ Have met all the benefits and mandate articulated as the basis for the merger ✔ Have grown our customer base	✔ Maintain financial strength while planning for the future

Measures

It is important to set specific measures that can be used to enable assessment and progress on the strategic directions. The group set the following measures – the measures are not complete, and management needs to do some analysis to fill in the blanks that are contained in the following measures.

Quadrant: Customers & Community Strategic Directions	Measures for 2008
✔ Be known for excellence in customer service ✔ Be known for continuous reliability of supply and service ✔ Be respected for its contribution and presence in the community	Exceed mandated quality indices (regarding outage, response time, # of visits to customers) Calls to contact center are analyzed and targets set by March 31, 2008 Limit negative media exposure Contribute __ hours to community capacity and events and employees involvement in campaigns

Quadrant: Personnel Strategic Directions	Measures for 2008
✔ Be known as a place where are our staff are motivated and empowered ✔ Be known for its safe work environment	Achieve the EUSA safety silver award Absenteeism will be less than industry average and less than last year's actual # of training hours/year per employee # of incidents reported and time lost Voluntary turnover will be less than last year # of grievances Participation in company events

Quadrant: Operations Strategic Directions	Measures for 2008
✔ Have met all the benefits and mandate articulated as the basis for the merger ✔ Have grown our customer base	Customer numbers have increased Cost savings of >$500,000 Reduce duplication of systems and processes

Quadrant: Financial Strategic Directions	Measures for 2008
✔ Maintain financial strength while planning for the future	Debt/equity of 55/45 NIAT of __% gross profit Monthly cash flow of days in receivable to improve Reinvest depreciation and prior year's NIAT Reduce inventory write off through implementing inventory control

Action Plan

The strategic directions have been set and now a plan to move forward on the strategy is needed. The management team needs to identify the actions to be taken in order to achieve the strategic directions. Appendix B presents a template for management to use to document the actions that will be taken (an example action was included for each quadrant).

Accountabilities

The role of the Board, Management and Staff with respect to the company strategy is:

- The Board is accountable to ensure the company fulfils the mission, and is working towards the vision along the path of the strategic directions
- Management needs to decide the how the company will deliver on the mission, vision and strategy
- Staff and management need to implement the how and monitor progress
- The Board needs to monitor that the how is consistent with the mission, vision and values
- The Board needs to monitor the how to ensure that the company moves forward
- The Board needs to evaluate progress on the directions and measures.

Strategic Quadrant: Customers & Community

Strategic Directions	Measures for 2008	Action Items for 2008	Champion & Deadlines
✔ Be known for excellence in customer service ✔ Be known for continuous reliability of supply and service	Calls to contact center are analyzed and targets set by March 31, 2008 Exceed mandated quality indices (regarding outage, response time, # of visits to customers)	1. Design customer satisfaction survey and issue by June 2008 – this will form the threshold for assessing future survey results 2.	
✔ Be respected for its contribution and presence in the community	Limit negative media exposure Contribute __ hours to community capacity and events and employees involvement in campaigns	1.	

Strategic Quadrant: Personnel

Strategic Directions	Measures for 2008	Action Items for 2008	Champion & Deadlines
✔ Be known as a place where are our staff are motivated and empowered	Absenteeism will be less than industry average and less than last year's actual # of training hours/year per employee Voluntary turnover will be less than last year # of grievances Participation in company events	1. Design employee engagement survey and issue by June 2008 – this will form the threshold for assessing future survey results 2.	
✔ Be known for its safe work environment	Achieve the EUSA safety silver award # of incidents reported and time lost	1.	

Strategic Quadrant: Operations

Strategic Directions	Measures for 2008	Action Items for 2008	Champion & Deadlines
✔ Have met all the benefits and mandate articulated as the basis for the merger	Cost savings of >$500,000 Reduce duplication of systems and processes	1. Conduct diagnosis of operations to identify activities that are duplicated 2. Ask staff to identify actions that can be taken to improve efficiency	
✔ Have grown our customer base	Customer numbers have increased	1.	

Strategic Quadrant: Financial

Strategic Directions	Measures for 2008	Action Items for 2008	Champion & Deadlines
✔ Maintain financial strength while planning for the future	Debt/equity of 55/45 NIAT of __% gross profit Monthly cash flow of days in receivable to improve Reinvest depreciation and prior year's NIAT Reduce inventory write off through implementing inventory control	1. Actual debt/equity analyzed and options identified to move current ratio to targeted ratio 2.	

Appendix H
TD release of Guarantee

TD Commercial Banking

40 King Street
St. Catharines, Ont
L2R 3H4

Telephone No.: 905-685-7631
Fax No.: 905-685-7053

November 15, 2010

Niagara Peninsula Energy Inc.
7447 Pin Oak Drive
Niagara Falls, Ont
L2E 6S9

Attention: Suzanne Wilson – Vice President, Finance

Dear Ms. Wilson:

Re: Release of Limited Guarantee

We wish to confirm that the Limited Guarantee of Advances in the amount of $3,250,000. executed by Niagara Peninsula Energy Inc. in support of Niagara West Transformation Corp. has been released.

Please call if any further assistance or clarification is required.

Yours truly,

David Drosky
Manager

niagara peninsula energy

Our energy works for you.

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