



February 25, 2011

Kirsten Walli, Board Secretary  
Ontario Energy Board  
P.O. Box 2319, 27<sup>th</sup> Floor  
2300 Yonge Street  
Toronto, ON  
M4P 1E4

Attention: Ms. Walli

**Re: Amendment to Espanola Regional Hydro Distribution Corporation's 2011 3<sup>rd</sup> Generation IRM Rate Application (EB-2010-0081) for Recovery of Late Payment Settlement Costs as per Board Order and Decision (EB-2010-0295)**

Please find enclosed ERHDC's amendment to the 2011 Distribution Rate Application under 3<sup>rd</sup> Generation IRM. On February 22, 2011 the Ontario Energy Board issued a Decision and Order on the Late Payment Penalty Generic Hearing (EB-2010-0295) regarding the recovery of settlement costs. The OEB has found that the costs sought to be recovered by distributors were prudently incurred and shall be recovered from all rate payers of the affected electricity distributor. As per the OEB Decision and Order ERHDC submits this amendment to the IRM application within 7 days of the date of the Decision and Order, including detailed calculations and supporting documentation outlining the derivation of the rate riders based on the methodology outlined in the decision. The amendment has been electronically filed through the Board's web portal.

Sincerely,

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Jennifer Uchmanowicz  
on behalf of Espanola Regional Hydro Inc  
Rates and Regulatory Affairs Officer  
PUC Distribution Inc.  
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Espanola Regional Hydro Distribution Corporation (“ERHDC”)  
Amendment to 2011 Distribution Rate Application  
Under 3<sup>rd</sup> Generation IRM

Introduction

Espanola Regional Hydro Distribution Corporation filed an application with the Ontario Energy Board (the “Board”) on November 8, 2010, under section 78 of the *Ontario Energy Board Act, 1998*, seeking approval for changes to the distribution rates that ERHDC charges for electricity distribution, to be effective May 1, 2011. The application is based on the 2011 3<sup>rd</sup> Generation Incentive Regulation Mechanism. In the application ERHDC requested a rate rider Z-Factor treatment for recovery of late payment litigation costs along with a request for a generic hearing to determine if the settlement costs are recoverable from customers and, if so, the form and timing of recovery from customers. On February 22, 2011 the Ontario Energy Board issued a Decision and Order on the Late Payment Penalty Generic Hearing (EB-2010-0295) regarding the recovery of settlement costs. The OEB has found that the costs sought to be recovered by distributors were prudently incurred and shall be recovered from all rate payers of the affected electricity distributor. As per the OEB Decision and Order ERHDC submits this amendment to the IRM application within 7 days of the date of the Decision and Order, including detailed calculations and supporting documentation outlining the derivation of the rate riders based on the methodology outlined in the decision.

Treatment for Recovery of Late Payment Litigation Costs as originally filed November 8, 2010

Below is section 11 of the Managers Summary of the 3<sup>rd</sup> Generation rate application ERHDC filed with the Board on November 8, 2010. ERHDC is requesting this section be amended to reflect the Boards Decision regarding recovery of late payment settlement costs (EB-2010-0295).

*11. Rate rider for Z-Factor treatment for recovery of Late Payment Litigation Costs*

*As part of this application, ERHDC will be seeking recovery of a one-time expense in the amount of \$9,955.13 which is to be paid on June 30, 2011. This payment will serve to resolve long-standing litigation against all former municipal electric utilities (“MEUs”) in the Province in relation to late payment penalty (“LPP”) charges collected pursuant to, first, Ontario Hydro rate schedules and, after industry restructuring, Ontario Energy Board rate orders (the “LPP Class Action”).*

*On July 22, 2010, The Honourable Mr. Justice Cumming of the Ontario Superior Court of Justice approved a settlement of the LPP Class Action, the principal terms of which are the following:*

- (a) Former MEUs collectively pay \$17 million in damages;*
- (b) Payment is not due until June 30, 2011; and*

- (c) *Amounts paid, after deduction for class counsel fee, will be paid to the Winter Warmth Fund or similar charities.*

*ERHDC will make a payment of \$9,955.13 by June 30, 2011. This amount represents ERHDC's share of the settlement, applicable taxes and legal fees. ERHDC believes that the settlement is in its best interest and the best interest of its customers and that the payment in connection with the settlement will be a prudent one.*

*ERHDC along with all other electricity distributors filing for cost of service and IRM applications for 2011 electricity distribution rates (the "LDCs"), proposes that the Board hold a generic hearing at the earliest opportunity to determine if all costs and damages incurred in this litigation and settlement are recoverable from customers and, if so, the form and timing of recovery from customers. If the Board agrees to hold this generic hearing, the LDCs will collectively file written evidence to address the prudence of the settlement, the costs incurred, the methodology of allocating total settlement costs amongst the LDCs, the proposed method of recovery, and any other matters the Board determines appropriate.*

*If the Board determines that it will not hold a generic proceeding, ERHDC asks to be advised of this fact as soon as possible so that it can file, to permit adjudication as part of this proceeding, written evidence to address the prudence of the settlement, the costs incurred, the methodology of allocating total settlement costs amongst the LDCs, the proposed method of recovery, and any other matters the Board determines appropriate.*

Treatment for Recovery of Late Payment Litigation Costs as per OEB Decision and Order (EB-2010-0295)

ERHDC is seeking to amend section 11 above of ERHDC's original 2011 rate application to reflect the Decision and Order of the Board (EB-2010-0295). The Board orders that the costs and damages arising from the LPP class action shall be recovered from all ratepayers of the affected electricity distributor. ERHDC is an affected electricity distributor and ERHDC's share of the LPP class action costs that are approved for recovery as per Appendix A of the OEB decision is \$9,905.46. For the purpose of recovery, the costs and damages shall be allocated to all customers on the basis of distribution revenue as reported in the RRR and shall be recoverable over a 12 month period starting May 1, 2011. The rate rider for the purposes of recovery shall be a fixed customer charge and for the purposes of this calculation the affected distributor shall use the 2009 year-end actual customer or connection data as reported as part of the distributor's RRR. It should be noted that in ERHDC's 2009 RRR reporting the distribution revenue for USL was reported as zero and the revenue for the USL was included in the General Service <50 kW class. For the purpose of this rate rider calculation ERHDC reduced the General Service <50kW revenue in the schedule below by \$4,459 from what was reported in the RRR filing and included \$4,459 in distribution revenue in the USL. ERHDC will be mindful of this requirement in the 2010 RRR reporting and ensure distribution revenue is properly reported by each rate class.

## Distribution Revenue as reported in the 2009 RRR (including adjustment to USL):

Rate Class	Revenue Account (4080)	Percentage	Allocation of \$9,905.46
Residential	768,750	62.7%	6,210.71
General Service < 50kW	294,217	24.1%	2,387.22
General Service > 50 kW	122,571	10.0%	990.55
Unmetered Scattered Load	4,459	0.4%	39.62
Sentinel Lights	1,012	0.1%	9.91
Street Lights	32,931	2.7%	267.45
Total	1,223,940	100%	\$9,905.46

## Customer and Connection Counts as reported in the RRR:

Rate Class	Customer/ Connections	Allocation of \$9,905.46 (as per the above table)	Annual amount per customer/ connection	Monthly Rate Rider
	A	B	C=A/B	D=C/12
Residential	2,857	6,210.71	2.17	0.18
General Service < 50 kW	477	2,387.22	5.01	0.42
General Service > 50kW	25	990.55	39.62	3.30
Unmetered Scattered Load	24	39.62	1.65	0.14
Sentinel Lights	29	9.91	0.34	0.03
Street Lights	1045	267.45	0.26	0.02
Total		\$9,905.46		

ERHDC requests an amendment to the 2011 3<sup>rd</sup> Generation Rate Application submitted to the Board November 8, 2010 (EB-2010-0081) to include the rate riders below for a one year period effective May 1, 2011 as per the Boards Decision and Order (EB-2010-0295) regarding the costs and damages arising from the settlement of the LPP class action.

Rate Rider to be effective May 1, 2011:

Rate Class	Rate Rider – Monthly fixed customer service charge
Residential	0.18
General Service < 50 kW	0.42
General Service > 50kW	3.30
Unmetered Scattered Load	0.14
Sentinel Lights	0.03
Street Lights	0.02