

March 1, 2011

Delivered by RESS and Courier

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

Attention: Ms. Kirsten Walli, Board Secretary

Re: Niagara Peninsula Energy Inc.  
Application for Recovery of Late Payment Penalty Class Action Settlement  
Board File Number: EB-2010-0295

Dear Ms. Walli:

As required by the Board in its Decision and Order in the above proceeding, Niagara Peninsula Energy Inc. is submitting an application for recovery of the Late Payment Penalty Class Action Settlement amount.

If further information is required, please contact Suzanne Wilson, Vice-President Finance at 905-353-6004 or [Suzanne.Wilson@npei.ca](mailto:Suzanne.Wilson@npei.ca).

Yours truly,



Brian Wilkie  
President & CEO

EB-2010-0295

EB-2010-0138

**IN THE MATTER OF** a proceeding initiated by the Ontario Energy Board to determine whether the costs and damages incurred by electricity distributors as a result of the April 21, 2010 Minutes of Settlement in the late payment penalty class action, as further described herein, are recoverable from electricity distribution ratepayers, and if so, the form and timing of such recovery.

**AND IN THE MATTER OF** an application by Niagara Peninsula Energy Inc. to the Ontario Energy Board for an Order or Orders approving or fixing just and reasonable rates and other service charges for the distribution of electricity as of May 1, 2011.

**Niagara Peninsula Energy Inc.**

**Application for Recovery of LPP Class Action Costs**

**Filed: March 1, 2011**

On February 22, 2011 the Ontario Energy Board issued its Decision and Order on whether the costs and damages incurred by electricity distributors as a result of the April 21, 2010 Minutes of Settlement in the late payment penalty class action are recoverable from electricity distribution ratepayers, and if so, the form and timing of such recovery.

The Board ordered that:

1. The costs and damages arising from the LPP class action that are sought for recovery in this proceeding shall be recovered from all ratepayers of the Affected Electricity Distributors. A listing of each Affected Electricity Distributor and their share of the class action costs that is approved for recovery is provided in Appendix A to this Decision.
2. For the purposes of recovery, the costs and damages arising from the settlement of the LPP class action that are approved in this proceeding, shall be allocated to all customers of each Affected Electricity Distributor in Appendix A, on the basis of distribution revenues. The distribution revenues to be used for this purpose shall be the 2009 distribution revenues used in the RRR process.
3. THESL shall recover its share of the amount approved for recovery, as provided in Appendix A over a 24-month period starting May 1, 2011. All other Affected Electricity Distributors shall recover each of their shares of the amounts approved for recovery, as provided in Appendix A, over a 12-month period starting May 1, 2011.

4. The rate rider for the purposes of recovery shall be a fixed customer charge and for the purposes of this calculation, each Affected Electricity Distributor in Appendix A shall use the 2009 year-end actual customer or connection data, as applicable, reported as part of each distributor's RRR.
5. The Board directs all Affected Electricity Distributors (in Appendix A) that currently have an IRM or cost of service application before the Board, to file with the Board within seven days of the date of this Decision and Order, detailed calculations including supporting documentation, outlining the derivation of the rate riders based on the methodology outlined in this Decision. The submitted rate riders shall be verified in the Affected Electricity Distributors' respective IRM or cost of service applications.
6. For those Affected Electricity Distributors (in Appendix A) that do not currently have an IRM or cost of service application before the Board, the Board directs these distributors to file with Board within seven days of the date of this Decision and Order, detailed calculations including supporting documentation outlining the derivation of the rate riders based on the methodology outlined in this Decision. These distributors shall also file a draft tariff of rates and charges that includes the proposed rate riders. Intervenor and Board staff wishing to make submissions on the information filed shall do so within six days of the filing. The Affected Electricity Distributor shall have nine days from the date of the filing to respond to any submissions.

Niagara Peninsula Energy Inc. ("NPEI") currently has a cost of service rate application before the Board (EB-2010-0138), and is therefore filing its proposed LPP Settlement Rate Riders to be verified in the current rate application.

As per Appendix A of the LPP Settlement Decision and Order, NPEI's approved recovery amount is \$167,381.05. Of this total, \$116,068.52 relates to the former Niagara Falls Hydro Inc. and \$51,312.53 relates to the former Peninsula West Utilities Ltd.

Since the approved amounts relate to late payments collected prior to NPEI's amalgamation on January 1, 2008, NPEI submits that it is appropriate to implement separate rate riders relating to customers of each of the two predecessor LDCs. NPEI notes that the Board approved separate rate riders for Niagara Falls and Peninsula West customers in NPEI's 2010 IRM Rate Applications (EB-2009-0205 and EB-2009-0206) relating to the disposition of regulatory asset balances that pre-dated NPEI's amalgamation.

Accordingly, NPEI requests the following LPP Rate Riders:

**Late Penalty Payment Settlement Proposed Rate Riders**  
In effect from May 1, 2011 to April 30, 2012

Customer Class	Customer/ Connection	Niagara Falls Customers	Peninsula West Customers
Residential	Customer	0.1652	0.1567
GS < 50 kW	Customer	0.4596	0.3375
GS > 50 kW	Customer	5.1381	6.4525
Sentinel Lights	Connection	0.0118	0.0101
Streetlighting	Connection	0.0030	0.0032
Unmetered and Scattered	Connection	0.1831	0.0967

The derivation of the proposed rate riders is given below, and is based on the distribution revenues and customer/connection counts from NPEI's 2009 RRR

filing. For comparative purposes, NPEI has also included the calculation of the LPP rate riders on a harmonized basis.

**NPEI 2009 Data for LPP Rate Rider Calculation**

<b>Niagara Falls</b>			
Rate Class	Customer/ Connection Counts	Distribution Revenue (\$)	Distribution Revenue (%)
Residential	31,134	9,350,117	53.2%
General Service < 50 kW	2,877	2,403,554	13.7%
General Service > 50 kW	608	5,677,984	32.3%
Sentinel Lights	33	709	0.0%
Streetlighting	9,635	51,871	0.3%
Unmetered and Scattered	288	95,821	0.5%
<b>Total</b>	<b>44,575</b>	<b>17,580,056</b>	<b>100.0%</b>

<b>Peninsula West</b>			
Rate Class	Customer/ Connection Counts	Distribution Revenue (\$)	Distribution Revenue (%)
Residential	14,033	4,141,656	51.4%
General Service < 50 kW	1,512	961,040	11.9%
General Service > 50 kW	239	2,903,996	36.1%
Sentinel Lights	313	5,934	0.1%
Streetlighting	2,602	15,448	0.2%
Unmetered and Scattered	132	24,045	0.3%
<b>Total</b>	<b>18,831</b>	<b>8,052,119</b>	<b>100.0%</b>

<b>NPEI</b>			
Rate Class	Customer/ Connection Counts	Distribution Revenue (\$)	Distribution Revenue (%)
Residential	45,167	13,491,773	52.6%
General Service < 50 kW	4,389	3,364,595	13.1%
General Service > 50 kW	847	8,581,980	33.5%
Sentinel Lights	346	6,643	0.0%
Streetlighting	12,237	67,318	0.3%
Unmetered and Scattered	420	119,866	0.5%
<b>Total</b>	<b>63,406</b>	<b>25,632,175</b>	<b>100.0%</b>

Calculation of LPP Settlement Rate Rider - Niagara Falls area

Account	Balance for Disposition	Allocation Factor	Residential	GS < 50 kW	GS > 50 kW	Sentinel Lights	Streetlighting	Unmetered and Scattered	Total
% of Distribution Revenue			53.2%	13.7%	32.3%	0.0%	0.3%	0.5%	
Late Payment Penalty Settlement	\$ 116,069	Dx Revenue	\$ 61,732	\$ 15,869	\$ 37,488	\$ 5	\$ 342	\$ 633	\$ 116,069

Class	Residential	GS < 50 kW	GS > 50 kW	Sentinel Lights	Streetlighting	Unmetered and Scattered
Monthly Fixed Rate Rider Amount	\$ 0.17	\$ 0.46	\$ 5.14	\$ 0.01	\$ 0.00	\$ 0.18
Customer/Connections	Customers	Customers	Customers	Connections	Connections	Connections

Calculation of LPP Settlement Rate Rider - Peninsula West area

Account	Balance for Disposition	Allocation Factor	Residential	GS < 50 kW	GS > 50 kW	Sentinel Lights	Streetlighting	Unmetered and Scattered	Total
% of Distribution Revenue			51.4%	11.9%	36.1%	0.1%	0.2%	0.3%	
Late Payment Penalty Settlement	\$ 51,313	Dx Revenue	\$ 26,393	\$ 6,124	\$ 18,506	\$ 38	\$ 98	\$ 153	\$ 51,313

Class	Residential	GS < 50 kW	GS > 50 kW	Sentinel Lights	Streetlighting	Unmetered and Scattered
Monthly Fixed Rate Rider Amount	\$ 0.16	\$ 0.34	\$ 6.45	\$ 0.01	\$ 0.00	\$ 0.10
Customer/Connections	Customers	Customers	Customers	Connections	Connections	Connections



Calculation of LPP Settlement Rate Rider - NPEI harmonized - Not Being Proposed

Account	Balance for Disposition	Allocation Factor	Residential	GS < 50 kW	GS > 50 kW	Sentinel Lights	Streetlighting	Unmetered and Scattered	Total
% of Distribution Revenue			52.6%	13.1%	33.5%	0.0%	0.3%	0.5%	
Late Payment Penalty Settlement	\$ 167,381	Dx Revenue	\$ 88,103	\$ 21,971	\$ 56,041	\$ 43	\$ 440	\$ 783	\$ 167,381

Class	Residential	GS < 50 kW	GS > 50 kW	Sentinel Lights	Streetlighting	Unmetered and Scattered
Monthly Fixed Rate Rider Amount	\$ 0.16	\$ 0.42	\$ 5.51	\$ 0.01	\$ 0.00	\$ 0.16
Customer/Connections	Customers	Customers	Customers	Connections	Connections	Connections

The following table compares the separate rate riders requested for Niagara Falls and Peninsula West customers to what the rate riders would be if they were derived on a harmonized basis:

**Late Penalty Payment Settlement Rate Rider**  
**In effect from May 1, 2011 to April 30, 2012**

Customer Class	Customer/ Connection	Niagara Falls Calculated Separately	Peninsula West Calculated Separately	Harmonized NPEI Calculation
Residential	Customer	0.1652	0.1567	0.1626
GS < 50 kW	Customer	0.4596	0.3375	0.4172
GS > 50 kW	Customer	5.1381	6.4525	5.5137
Sentinel Lights	Connection	0.0118	0.0101	0.0104
Streetlighting	Connection	0.0030	0.0032	0.0030
Unmetered and Scattered	Connection	0.1831	0.0967	0.1553