



EB-2011-0098

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-on-the-Lake Hydro Inc. for an order or orders approving or fixing just and reasonable rates and other charges to be effective May 1, 2011;

AND IN THE MATTER OF a motion to review and vary the Ontario Energy Board rate order in EB-2010-0101 dated March 17, 2011, for rates effective May 1, 2011;

AND IN THE MATTER OF Rules 42, 44.01 and 45.01 of the Board's *Rules of Practice and Procedure*.

BEFORE: Paula Conboy
Presiding Member

DECISION AND ORDER ON MOTION AND REVISED RATE ORDER

BACKGROUND

Niagara-on-the-Lake Hydro Inc. ("NOTL") filed an application with the Ontario Energy Board (the "Board") on October 13, 2010, under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15 (Schedule B) (the "OEB Act"), seeking approval for changes to the rates that NOTL charges for electricity distribution, to

be effective May 1, 2011 (the “2011 rate application”). The Board assigned File Number EB-2010-0101 to this application.

The Board issued its Decision and Order on the application on March 17, 2011. In its Decision, the Board approved NOTL’s IRM adjustment for the 2011 rate year and certain other requests. One request for which NOTL received approval was the recovery of a one time expense of \$24,800.65, which related to the late payment penalty (“LPP”) costs and damages resulting from a court settlement that addressed litigation against the Affected Electricity Distributors, including NOTL.

On March 18, 2011, NOTL filed a letter confirming the accuracy and completeness of the Tariff of Rates and Charges issued by the Board with its Decision on March 17, 2011.

NOTL filed a second letter with the Board on April 1, 2011 requesting that the Board remove the rate riders for recovery of LPP costs from the Tariff of Rates and Charges issued with the March 11, 2011 Decision.

The Board will treat the relief sought by NOTL as a motion for a review and variance of the March 17, 2011 Decision and Order as the April 1, 2011 letter was filed after the Tariff sheet confirmation period established by the March 17, 2011 Decision. The Board has assigned file number EB-2011-0098 to this proceeding.

In accordance with section 21(4)(b) of the OEB Act, the Board has determined that no person, other than the applicant will be adversely affected in a material way by the outcome of this proceeding and that it will therefore dispose of this proceeding without a hearing.

THE MOTION

NOTL indicated in its April 1, 2011 letter that the Board of Directors of NOTL decided in a meeting on March 31, 2011 that they did not wish to implement the rate riders established to recover the LPP costs which were approved by the Board in its Decision and Order dated March 17, 2011. As such, NOTL

requested that the rate riders established to recover the LPP costs be removed from the Tariff of Rates and Charges.

Rule 45.01 of the Board's Rules of Practice and Procedure states:

In respect of a motion brought under Rule 42.01, the Board may determine, with or without a hearing, a threshold question of whether the matter should be reviewed before conducting any review on the merits.

Rule 44.01(a) provides the grounds upon which a motion may be raised with the Board:

Every notice of a motion made under Rule 42.01, in addition to the requirements under Rule 8.02, shall:

(a) set out the grounds for the motion that raise a question as to the correctness of the order or decision, which grounds may include:

- i) error in fact;
- ii) change in circumstances;
- iii) new facts that have arisen;
- iv) facts that were not previously placed in evidence in the proceeding and could not have been discovered by reasonable diligence at the time.

The Motion does not raise questions regarding the correctness of the findings or facts that were not previously placed in evidence in the proceeding. NOTL originally requested recovery of the LPP costs in its 2011 rate application. The Board reviewed NOTL's evidence and approved its request. In its letter dated April 1, 2011, NOTL requested to remove the LPP rate riders from the Tariff of Rates and Charges.

The Board has determined that a change in circumstances applies in this case and is relevant to the grounds for the Motion. Therefore, the Board has determined that no threshold determination is required and has considered the merits of the Motion.

BOARD FINDINGS

The Board finds that NOTL's motion has merit and grants the relief requested. The Board varies the Rate Order issued on March 17, 2011 to reflect the removal of the LPP rate riders for all applicable classes.

NOTL was among the Affected Electricity Distributors in the Late Payment Penalty Generic hearing (EB-2010-0295) seeking to recover from ratepayers the costs and damages arising from the settlement of the LPP class actions. During that proceeding which began in October 2010, a number of Affected Electricity Distributors stated that they did not intend to recover from ratepayers the costs arising from the LPP class action, were these costs found to be recoverable. NOTL was not among the distributors that withdrew from the generic hearing. It was not until March 31, 2011 two weeks after NOTL's rate decision was issued, and over a month after the LPP decision was rendered that NOTL's board of directors met to determine that NOTL did not want to implement the approved rate riders. Additional administrative time and cost could have been avoided if NOTL's Board of Directors had met within the timelines set out by the Board. While in this case the additional costs are relatively minor, the Board expects that NOTL will take its regulatory requirements more seriously in the future.

THE BOARD THEREFORE ORDERS THAT the revised Tariff of Rates and Charges set out in Appendix A of this order will become final effective May 1, 2011, and will apply to electricity consumed or estimated to have been consumed on and after May 1, 2011. NOTL shall notify its customers of the rate changes no later than with the first bill reflecting the new rates.

ISSUED at Toronto, April 21, 2011

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

APPENDIX "A"

TO DECISION AND RATE ORDER

BOARD FILE NO: EB-2011- 0098

DATED: April 21, 2011

Niagara-on-the-Lake Hydro Inc.

TARIFF OF RATES AND CHARGES

Effective and Implementation Date May 1, 2011

This schedule supersedes and replaces all previously approved schedules of Rates, Charges and Loss Factors

EB-2010-0101

RESIDENTIAL SERVICE CLASSIFICATION

This classification applies to an account taking electricity at 750 volts or less where the electricity is used exclusively in a separately metered living accommodation. Customers shall be residing in single-dwelling units that consist of a detached house or one unit of a semi-detached, duplex, triplex or quadruplex house, with a residential zoning. Separately metered dwellings within a town house complex or apartment building also qualify as residential customers. Further servicing details are available in the distributor's Conditions of Service.

APPLICATION

The application of these rates and charges shall be in accordance with the Licence of the Distributor and any Code or Order of the Board, and amendments thereto as approved by the Board, which may be applicable to the administration of this schedule.

No rates and charges for the distribution of electricity and charges to meet the costs of any work or service done or furnished for the purpose of the distribution of electricity shall be made except as permitted by this schedule, unless required by the Distributor's Licence or a Code or Order of the Board, and amendments thereto as approved by the Board, or as specified herein.

Unless specifically noted, this schedule does not contain any charges for the electricity commodity, be it under the Regulated Price Plan, a contract with a retailer or the wholesale market price, as applicable.

It should be noted that this schedule does not list any charges, assessments or credits that are required by law to be invoiced by a distributor and that are not subject to Board approval, such as the Debt Retirement Charge, charges for Ministry of Energy Conservation and Renewable Energy Program, the Global Adjustment, the Ontario Clean Energy Benefit and the HST.

MONTHLY RATES AND CHARGES – Delivery Component

Service Charge	\$	18.06
Smart Meter Funding Adder – effective until April 30, 2012	\$	1.00
Distribution Volumetric Rate	\$/kWh	0.0127
Rate Rider for Global Adjustment Sub-Account Disposition (2011) – effective until April 30, 2012		
Applicable only for Non-RPP Customers	\$/kWh	(0.0001)
Rate Rider for Deferral/Variance Account Disposition (2009) – effective until April 30, 2013	\$/kWh	0.0002
Rate Rider for Deferral/Variance Account Disposition (2011) – effective until April 30, 2012	\$/kWh	(0.0040)
Rate Rider for Lost Revenue Adjustment Mechanism (LRAM) Recovery/Shared Savings		
Mechanism (SSM) Recovery – effective until April 30, 2012	\$/kWh	0.0005
Rate Rider for Tax Change – effective until April 30, 2012	\$/kWh	(0.0004)
Retail Transmission Rate – Network Service Rate	\$/kWh	0.0061
Retail Transmission Rate – Line and Transformation Connection Service Rate	\$/kWh	0.0013

MONTHLY RATES AND CHARGES – Regulatory Component

Wholesale Market Service Rate	\$/kWh	0.0052
Rural Rate Protection Charge	\$/kWh	0.0013
Standard Supply Service – Administrative Charge (if applicable)	\$	0.25

Niagara-on-the-Lake Hydro Inc.

TARIFF OF RATES AND CHARGES

Effective and Implementation Date May 1, 2011

This schedule supersedes and replaces all previously approved schedules of Rates, Charges and Loss Factors

EB-2010-0101

GENERAL SERVICE LESS THAN 50 kW SERVICE CLASSIFICATION

This classification applies to a non residential account taking electricity at 750 volts or less whose monthly average peak demand is less than, or is forecast to be less than, 50 kW. Further servicing details are available in the distributor's Conditions of Service.

APPLICATION

The application of these rates and charges shall be in accordance with the Licence of the Distributor and any Code or Order of the Board, and amendments thereto as approved by the Board, which may be applicable to the administration of this schedule.

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MONTHLY RATES AND CHARGES – Delivery Component

Service Charge	\$	45.35
Smart Meter Funding Adder – effective until April 30, 2012	\$	1.00
Distribution Volumetric Rate	\$/kWh	0.0136
Rate Rider for Global Adjustment Sub-Account Disposition (2011) – effective until April 30, 2012		
Applicable only for Non-RPP Customers	\$/kWh	(0.0001)
Rate Rider for Deferral/Variance Account Disposition (2009) – effective until April 30, 2013	\$/kWh	0.0002
Rate Rider for Deferral/Variance Account Disposition (2011) – effective until April 30, 2012	\$/kWh	(0.0040)
Rate Rider for Lost Revenue Adjustment Mechanism (LRAM) Recovery/Shared Savings		
Mechanism (SSM) Recovery – effective until April 30, 2012	\$/kWh	0.0001
Rate Rider for Tax Change – effective until April 30, 2012	\$/kWh	(0.0004)
Retail Transmission Rate – Network Service Rate	\$/kWh	0.0056
Retail Transmission Rate – Line and Transformation Connection Service Rate	\$/kWh	0.0012

MONTHLY RATES AND CHARGES – Regulatory Component

Wholesale Market Service Rate	\$/kWh	0.0052
Rural Rate Protection Charge	\$/kWh	0.0013
Standard Supply Service – Administrative Charge (if applicable)	\$	0.25

Niagara-on-the-Lake Hydro Inc.

TARIFF OF RATES AND CHARGES

Effective and Implementation Date May 1, 2011

This schedule supersedes and replaces all previously approved schedules of Rates, Charges and Loss Factors

EB-2010-0101

GENERAL SERVICE 50 to 4,999 kW SERVICE CLASSIFICATION

This classification applies to a non residential account whose monthly average peak demand is equal to or greater than, or is forecast to be equal to or greater than 50 kW but less than 5,000 kW. Further servicing details are available in the distributor's Conditions of Service.

APPLICATION

The application of these rates and charges shall be in accordance with the Licence of the Distributor and any Code or Order of the Board, and amendments thereto as approved by the Board, which may be applicable to the administration of this schedule.

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MONTHLY RATES AND CHARGES – Delivery Component

Service Charge	\$	323.99
Smart Meter Funding Adder – effective until April 30, 2012	\$	1.00
Distribution Volumetric Rate	\$/kW	2.5318
Rate Rider for Global Adjustment Sub-Account Disposition (2011) – effective until April 30, 2012		
Applicable only for Non-RPP Customers	\$/kW	(0.0337)
Rate Rider for Deferral/Variance Account Disposition (2009) – effective until April 30, 2013	\$/kW	0.0470
Rate Rider for Deferral/Variance Account Disposition (2011) – effective until April 30, 2012	\$/kW	(1.5169)
Rate Rider for Lost Revenue Adjustment Mechanism (LRAM) Recovery/Shared Savings		
Mechanism (SSM) Recovery – effective until April 30, 2012	\$/kW	0.4712
Rate Rider for Tax Change – effective until April 30, 2012	\$/kW	(0.0569)
Retail Transmission Rate – Network Service Rate	\$/kW	2.2738
Retail Transmission Rate – Line and Transformation Connection Service Rate	\$/kW	0.4573
Retail Transmission Rate – Network Service Rate – Interval Metered	\$/kW	2.4575
Retail Transmission Rate – Line and Transformation Connection Service Rate – Interval Metered	\$/kW	1.1000

MONTHLY RATES AND CHARGES – Regulatory Component

Wholesale Market Service Rate	\$/kWh	0.0052
Rural Rate Protection Charge	\$/kWh	0.0013
Standard Supply Service – Administrative Charge (if applicable)	\$	0.25

Niagara-on-the-Lake Hydro Inc.

TARIFF OF RATES AND CHARGES

Effective and Implementation Date May 1, 2011

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EB-2010-0101

UNMETERED SCATTERED LOAD SERVICE CLASSIFICATION

This classification applies to an account taking electricity at 750 volts or less whose average monthly maximum demand is less than, or is forecast to be less than, 50 kW and the consumption is unmetered. Such connections include cable TV power packs, bus shelters, telephone booths, traffic lights, railway crossings, etc. The level of the consumption will be agreed to by the distributor and the customer, based on detailed manufacturer information/documentation with regard to electrical consumption of the unmetered load or periodic monitoring of actual consumption. Further servicing details are available in the distributor's Conditions of Service.

APPLICATION

The application of these rates and charges shall be in accordance with the Licence of the Distributor and any Code or Order of the Board, and amendments thereto as approved by the Board, which may be applicable to the administration of this schedule.

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MONTHLY RATES AND CHARGES – Delivery Component

Service Charge (per customer)	\$	53.58
Distribution Volumetric Rate	\$/kWh	0.0161
Rate Rider for Global Adjustment Sub-Account Disposition (2011) – effective until April 30, 2012 Applicable only for Non-RPP Customers	\$/kWh	(0.0001)
Rate Rider for Deferral/Variance Account Disposition (2009) – effective until April 30, 2013	\$/kWh	0.0033
Rate Rider for Deferral/Variance Account Disposition (2011) – effective until April 30, 2012	\$/kWh	(0.0040)
Rate Rider for Tax Change – effective until April 30, 2012	\$/kWh	(0.0010)
Retail Transmission Rate – Network Service Rate	\$/kWh	0.0056
Retail Transmission Rate – Line and Transformation Connection Service Rate	\$/kWh	0.0012

MONTHLY RATES AND CHARGES – Regulatory Component

Wholesale Market Service Rate	\$/kWh	0.0052
Rural Rate Protection Charge	\$/kWh	0.0013
Standard Supply Service – Administrative Charge (if applicable)	\$	0.25

Niagara-on-the-Lake Hydro Inc.

TARIFF OF RATES AND CHARGES

Effective and Implementation Date May 1, 2011

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EB-2010-0101

STREET LIGHTING SERVICE CLASSIFICATION

This classification applies to an account for roadway lighting with a Municipality, Regional Municipality, Ministry of Transportation and private roadway lighting operation, controlled by photo cells. The consumption for these customers will be based on the calculated connected load times the required lighting times established by an approved OEB process. Further servicing details are available in the distributor's Conditions of Service.

APPLICATION

The application of these rates and charges shall be in accordance with the Licence of the Distributor and any Code or Order of the Board, and amendments thereto as approved by the Board, which may be applicable to the administration of this schedule.

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MONTHLY RATES AND CHARGES – Delivery Component

Service Charge (per connection)	\$	4.92
Distribution Volumetric Rate	\$/kW	19.2173
Rate Rider for Global Adjustment Sub-Account Disposition (2011) – effective until April 30, 2012		
Applicable only for Non-RPP Customers	\$/kW	(0.0345)
Rate Rider for Deferral/Variance Account Disposition (2009) – effective until April 30, 2013	\$/kW	0.0965
Rate Rider for Deferral/Variance Account Disposition (2011) – effective until April 30, 2012	\$/kW	(1.5523)
Rate Rider for Tax Change – effective until April 30, 2012	\$/kW	(0.6950)
Retail Transmission Rate – Network Service Rate	\$/kW	1.7147
Retail Transmission Rate – Line and Transformation Connection Service Rate	\$/kW	0.3535

MONTHLY RATES AND CHARGES – Regulatory Component

Wholesale Market Service Rate	\$/kWh	0.0052
Rural Rate Protection Charge	\$/kWh	0.0013
Standard Supply Service – Administrative Charge (if applicable)	\$	0.25

Niagara-on-the-Lake Hydro Inc.
TARIFF OF RATES AND CHARGES
Effective and Implementation Date May 1, 2011

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EB-2010-0101

microFIT GENERATOR SERVICE CLASSIFICATION

This classification applies to an electricity generation facility contracted under the Ontario Power Authority's microFIT program and connected to the distributor's distribution system. Further servicing details are available in the distributor's Conditions of Service.

APPLICATION

The application of these rates and charges shall be in accordance with the Licence of the Distributor and any Code or Order of the Board, and amendments thereto as approved by the Board, which may be applicable to the administration of this schedule.

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MONTHLY RATES AND CHARGES – Delivery Component

Service Charge	\$	5.25
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Niagara-on-the-Lake Hydro Inc.

TARIFF OF RATES AND CHARGES

Effective and Implementation Date May 1, 2011

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EB-2010-0101

ALLOWANCES

Transformer Allowance for Ownership - per kW of billing demand/month	\$	(0.56)
Primary Metering Allowance for transformer losses – applied to measured demand and energy	%	(1.00)

SPECIFIC SERVICE CHARGES

APPLICATION

The application of these rates and charges shall be in accordance with the Licence of the Distributor and any Code or Order of the Board, and amendments thereto as approved by the Board, which may be applicable to the administration of this schedule.

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It should be noted that this schedule does not list any charges, assessments or credits that are required by law to be invoiced by a distributor and that are not subject to Board approval, such as the Debt Retirement Charge, charges for Ministry of Energy Conservation and Renewable Energy Program, the Global Adjustment, the Ontario Clean Energy Benefit and the HST.

Customer Administration

Arrears Certificate	\$	15.00
Statement of Account	\$	15.00
Pulling Post Dated Cheques	\$	15.00
Duplicate Invoices for Previous Billing	\$	15.00
Request for Other Billing Information	\$	15.00
Easement Letter	\$	15.00
Account History	\$	15.00
Credit reference/credit check (plus credit agency costs)	\$	15.00
Returned Cheque Charge (plus bank charges)	\$	15.00
Charge to Certify Cheque	\$	15.00
Account set up charge/change of occupancy charge (plus credit agency costs if applicable)	\$	30.00
Special Meter Reads	\$	30.00
Meter dispute charge plus Measurement Canada fees (if meter found correct)	\$	30.00

Non-Payment of Account

Late Payment - per month	%	1.50
Late Payment - per annum	%	19.56
Collection of Account Charge – No Disconnection	\$	30.00
Disconnect/Reconnect Charges at Meter – During Regular Hours	\$	65.00
Disconnect/Reconnect Charges at Meter – After Regular Hours	\$	185.00
Disconnect/Reconnect Charges at Pole– During Regular Hours	\$	185.00
Disconnect/Reconnect Charges at Pole – After Regular Hours	\$	415.00

Service Call – Customer-owned Equipment – During Regular Hours	\$	30.00
Service Call – Customer-owned Equipment – After Regular Hours	\$	165.00
Install/Remove Load Control Device – During Regular Hours	\$	65.00
Install/Remove Load Control Device – After Regular Hours	\$	185.00
Temporary Service Install & Remove – Overhead – No Transformer	\$	500.00
Temporary Service Install & Remove – Underground – No Transformer	\$	300.00
Temporary Service Install & Remove – Overhead – with Transformer	\$	1,000.00
Specific Charge for Access to the Power Poles – per pole/year	\$	22.35
Specific Charge for Bell Canada Access to the Power Poles – per pole/year	\$	18.36

Note: Specific Charge for Bell Canada Access to the Power Poles is valid only until the existing joint-use agreement is terminated.

Niagara-on-the-Lake Hydro Inc.

TARIFF OF RATES AND CHARGES

Effective and Implementation Date May 1, 2011

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EB-2010-0101

RETAIL SERVICE CHARGES (if applicable)

APPLICATION

The application of these rates and charges shall be in accordance with the Licence of the Distributor and any Code or Order of the Board, and amendments thereto as approved by the Board, which may be applicable to the administration of this schedule.

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Retail Service Charges refer to services provided by a distributor to retailers or customers related to the supply of competitive electricity

One-time charge, per retailer, to establish the service agreement between the distributor and the retailer	\$	100.00
Monthly Fixed Charge, per retailer	\$	20.00
Monthly Variable Charge, per customer, per retailer	\$/cust.	0.50
Distributor-consolidated billing charge, per customer, per retailer	\$/cust.	0.30
Retailer-consolidated billing credit, per customer, per retailer	\$/cust.	(0.30)
Service Transaction Requests (STR)		
Request fee, per request, applied to the requesting party	\$	0.25
Processing fee, per request, applied to the requesting party	\$	0.50
Request for customer information as outlined in Section 10.6.3 and Chapter 11 of the Retail Settlement Code directly to retailers and customers, if not delivered electronically through the Electronic Business Transaction (EBT) system, applied to the requesting party		
Up to twice a year		no charge
More than twice a year, per request (plus incremental delivery costs)	\$	2.00

LOSS FACTORS

If the distributor is not capable of prorating changed loss factors jointly with distribution rates, the revised loss factors will be implemented upon the first subsequent billing for each billing cycle.

Total Loss Factor – Secondary Metered Customer < 5,000 kW	1.0463
Total Loss Factor – Secondary Metered Customer > 5,000 kW	1.0156
Total Loss Factor – Primary Metered Customer < 5,000 kW	1.0358
Total Loss Factor – Primary Metered Customer > 5,000 kW	1.0055