Ontario Energy Board | **Commission de l'énergie de l'Ontario**

Ontario

EB-2010-0070
EB-2010-0071

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 Canadian Niagara Power Inc. for an order or orders approving or fixing just and reasonable distribution rates and other charges, to be effective May 1, 2011.

By Delegation, before: Allan Fogwill

DECISION AND ORDER

Introduction

Canadian Niagara Power Inc. ("CNPI") is a licensed distributor of electricity providing service to consumers within three service territories – Fort Erie ("CNPI-FE"), Eastern Ontario Power ("CNPI-EOP"), and Port Colborne ("CNPI-PC"). CNPI filed an application with the Ontario Energy Board (the "Board"), received on November 8, 2010, under section 78 of the *Ontario Energy Board Act*, *1998*, S.O. 1998, c. 15, (Schedule B), seeking approval for changes to the rates that CNPI-FE and CNPI-EOP charges for electricity distribution, to be effective May 1, 2011. CNPI filed a separate application for the territory served by CNPI-PC.

On July 15, 2009, the Board approved an application (EB-2008-0222 and EB-2008-0223) proposing the harmonization of rates for the CNPI-FE and CNPI-EOP service areas with the exception of certain aspects that are specific to each service area, such as loss adjustment factors, transmission service rates, and low voltage costs recovery, which are separate maintained. The application for CNPI-FE service territory was given

Board File No. EB-2010-0070. The application for the CNPI-EOP service territory was given Board File No. EB-2010-0071. As the applications contain common elements and adjustments under the 3rd Generation Incentive Rate Mechanism ("IRM"), I have combined my findings in this Decision and Order where applicable. In situations where differentiations need to be made between CNPI-FE and CNPI-EOP, they are separately addressed in this Decision and Order.

CNPI is one of 80 electricity distributors in Ontario regulated by the Board. In 2008, the Board announced the establishment of a new multi-year electricity distribution rate-setting plan, the 3rd Generation IRM process, which would be used to adjust electricity distribution rates starting in 2009 for those distributors whose 2008 rates were rebased through a cost of service review. As part of the plan, CNPI is one of the electricity distributors that will have its rates adjusted for 2011 on the basis of the IRM process, which provides for a mechanistic and formulaic adjustment to distribution rates and charges between cost of service applications.

To streamline the process for the approval of distribution rates and charges for distributors, the Board issued its *Report of the Board on 3rd Generation Incentive Regulation for Ontario's Electricity Distributors* on July 14, 2008, its *Supplemental Report of the Board on 3rd Generation Incentive Regulation for Ontario's Electricity Distributors* on September 17, 2008, and its *Addendum to the Supplemental Report of the Board on 3rd Generation Incentive Regulation for Ontario's Electricity Distributors* on January 28, 2009. (together the "Reports"). Among other things, the Reports contained the relevant guidelines for 2011 rate adjustments for distributors applying for distribution rate adjustments pursuant to the IRM process. On July 9, 2010 the Board issued an update to Chapter 3 of the Board's *Filing Requirements for Transmission and Distribution Applications* (the "Filing Requirements"), which outlines the Filing Requirements for IRM applications based on the policies in the Reports.

Notice of CNPI's rate application was given through newspaper publication in CNPI's service areas advising interested parties where the rate application could be viewed and advising how they could intervene in the proceeding or comment on the application. No letters of comment or requests for interventions were received. Board staff participated in the proceeding. This application proceeded by way of a written hearing.

While I have considered the entire record in this proceeding, this Decision and Order makes reference only to such evidence as is necessary to provide context to my findings. The following issues are addressed in this Decision and Order:

- Price Cap Index Adjustment;
- Changes in the Federal and Provincial Income Tax Rates;
- Smart Meter Funding Adder;
- Revenue-to-Cost Ratios;
- Retail Transmission Service Rates;
- Review and Disposition of Group 1 Deferral and Variance Accounts; and
- Correction of 2010 Rate Rider for the General Service 50 to 4,999 kW Rate Class (CNPI-EOP).

Price Cap Index Adjustment

CNPI's rate application was filed on the basis of the Filing Requirements. In fixing new distribution rates and charges for CNPI, I have applied the policies described in the Filing Requirements and the Reports.

As outlined in the Reports, distribution rates under the 3rd Generation IRM are to be adjusted by a price escalator less a productivity factor (X-factor) of 0.72% and a utility specific stretch factor of 0.4% for both CNPI-FE and CNPI-EOP. Based on the final 2010 data published by Statistics Canada, the Board has established the price escalator to be 1.3%. The resulting price cap index adjustment is therefore 0.18%. The rate model reflects this price cap index adjustment. The price cap index adjustment applies to distribution rates (fixed and variable charges) uniformly across all customer classes.

The price cap index adjustment will not apply to the following components of delivery rates:

- Rate Riders;
- Rate Adders;
- Low Voltage Service Charges;
- Retail Transmission Service Rates;
- Wholesale Market Service Rate;
- Rural Rate Protection Charge;
- Standard Supply service – Administrative Charge;
- Transformation and Primary Metering Allowances;
- Loss Factors;

- Specific Service Charges;
- MicroFIT Service Charge; and
- Retail Service Charges.

Changes in the Federal and Provincial Income Tax Rates

In its *Supplemental Report of the Board on 3rd Generation Incentive Regulation for Ontario's Electricity Distributors* dated September 17, 2008, the Board determined that a 50/50 sharing of the impact of currently known legislated changes, as applied to the tax level reflected in the Board-approved base rates for a distributor, is appropriate for the 3rd Generation IRM applications. This was based on a decision of the Board in a proceeding in relation to natural gas distributors' (EB-2007-0606/615) incentive regulation applications in which tax as a Z-factor was being considered. In that decision, the Board found that a 50/50 sharing is appropriate because it recognizes that tax changes already flow to some extent through the inflation factor, though the precise timing and quantum of the tax reduction during a current IRM period is not known.

The calculated annual tax reduction over the plan term will be allocated to customer rate classes on the basis of the Board-approved base-year distribution revenue. These amounts will be refunded to customers each year of the plan term, over a 12-month period, through a volumetric rate rider derived using annualized consumption by customer class underlying the Board-approved base rates.

In 2011, the maximum income tax rate is 28.25%, the minimum rate for those distributors eligible for both the federal and Ontario small business deduction is 15.50%, and the blended tax rate varies for certain distributors that are only eligible for the Ontario small business deduction. The model provided to distributors calculates the amount of change caused by the tax rate reductions and adjusts distribution rates by 50% of the total change from those taxes included in the most recent cost of service base distribution rates.

I find that a 50/50 sharing of the impact of changes from the tax level reflected in the Board-approved base rates to the currently known legislated tax level for 2011 is appropriate and shall be effected by means of a rate rider over a one-year period.

Smart Meter Funding Adder

On October 22, 2008 the Board issued the *Guideline for Smart Meter Funding and Cost Recovery* which sets out the Board's filing requirements in relation to the funding and recovery of costs associated with smart meter activities conducted by electricity distributors.

CNPI requested to change its current smart meter funding adder ("SMFA") from $1.00 to $2.45 per metered customer per month. CNPI used a weighted average of its three service areas (i.e. Port Colborne, Fort Erie, and Eastern Ontario Power) to calculate the proposed smart meter funding adder of $2.45 per metered customer per month. CNPI indicated that it intends to seek approval for harmonized rates for its three service areas in its next cost of service application. As a result, CNPI proposed a uniform smart meter funding adder for the three service areas. The calculation of the proposed weighted average smart meter funding adder is found in Table 1 below:

Table 1

Description	Fort Erie Amount	Port Colborne Amount	Gananoque Amount	Total Amount
Revenue Requirement - 2006	-	-	-	-
Revenue Requirement - 2007	-	-	-	-
Revenue Requirement - 2008	-	-	-	-
Revenue Requirement - 2009	116,308.21	71,919.94	$ 6,624.76	194,852.91
Revenue Requirement - 2010	308,249.05	219,846.43	$ 59,618.84	587,714.33
Revenue Requirement - 2011	342,740.89	273,398.85	$ 163,430.06	779,569.80
Total Revenue Requirement	767,298.16	565,165.22	229,673.65	1,562,137.03
Smart Meter Rate Adder Collected	(386,723.43)	(228,198.98)	(86,730.58)	(701,652.99)
Carrying Cost / Interest	(12,091.33)	(7,266.57)	(2,699.56)	(22,057.47)
Proposed Smart Meter Recovery	368,483.39	329,699.67	140,243.51	838,426.58
2011 Expected Metered Customers	15,776	9,212	3,546	28,534
Proposed Smart Meter Rate Adder	1.95	2.98	3.30	2.45

In its submission, Board staff noted that were the Board to approve the proposed $2.45 SMFA, this would create excess revenue for the Fort Erie service area and a revenue shortfall for Eastern Ontario Power service area at the time of disposition of CNPI's smart meter variance accounts. Board staff submitted that a SMFA of $1.95 and $3.30 would be more appropriate for CNPI-FE and CNPI-EOP respectively.

In its reply submission, CNPI submitted that the Board approved the harmonization of electricity distribution rates for CNPI's electricity distribution customers for its Fort Erie and Eastern Ontario Power service areas on the basis of a harmonized revenue requirement. CNPI noted that Board staff's understanding that CNPI is tracking its smart meter costs and revenue generated through the SMFA in separate variance accounts for each of CNPI's service areas is true, however, in the case of CNPI-FE and CNPI-EOP tracking is primarily associated with project management. CNPI further submitted that the rate base and revenue requirement for CNPI-FE and CNPI-EOP is harmonized so there can be no excess revenue for the CNPI-FE service area or revenue shortfall for CNPI-EOP service area.

CNPI also submitted that as an alternative the Board should approve the weighted average SMFA for Fort Erie and Eastern Ontario Power of $2.19. The calculation of the alternative proposed weighted average smart meter funding adder is found in Table 2 below:

Table 2

Smart Meter Rate Adder Harmonized for Fort Erie and Gananoque			
Description	Fort Erie Amount	Gananoque Amount	Total Amount
Revenue Requirement - 2006	-	-	-
Revenue Requirement - 2007	-	-	-
Revenue Requirement - 2008	-	-	-
Revenue Requirement - 2009	116,308.21	$ 6,624.76	122,932.97
Revenue Requirement - 2010	308,249.05	$ 59,618.84	367,867.89
Revenue Requirement - 2011	342,740.89	$ 163,430.06	506,170.95
Total Revenue Requirement	767,298.16	229,673.65	996,971.81
Smart Meter Rate Adder Collected	(386,723.43)	(86,730.58)	(473,454.01)
Carrying Cost / Interest	(12,091.33)	(2,699.56)	(14,790.89)
Proposed Smart Meter Recovery	368,483.39	140,243.51	508,726.90
2011 Expected Metered Customers	15,776	3,546	19,322
Proposed Smart Meter Rate Adder	$ 1.95	$ 3.30	$ 2.19

It is noted that the SMFA is a tool designed to provide advance funding and to mitigate the anticipated rate impact of smart meter costs when recovery of those costs is approved by the Board (G-2008-0002). Also, the SMFA was not intended to be compensatory (return on and of capital) on a cumulative basis over the term the SMFA was in effect. The SMFA was initially designed to fund future investment, not fully fund prior capital investment. A determination of full recovery will be made as part of an application for a prudence review. Since the deployment of smart meters on a province-wide basis is now nearing completion, and for the reasons noted earlier, the Board expects distributors to file for a final prudence review at the earliest possible opportunity following the availability of audited costs. For those distributors that are scheduled to file a cost-of-service application for 2012 distribution rates, the Board expects that they will apply for the disposition of smart meter costs and subsequent inclusion in rate base. For those distributors that are scheduled to remain on IRM, the Board expects these distributors to file an application with the Board seeking final approval for smart meter related costs. I will approve a SMFA for CNPI-FE and CNPI-EOP of $2.19 per metered customer per month from May 1, 2011 to April 30, 2012. This new SMFA will be reflected in the Tariff of Rates and Charges, and will cease on April 30, 2012. CNPI's variance accounts for smart meter program implementation costs, previously authorized by the Board, shall be continued.

I have not made any finding on the prudence of the proposed smart meter activities, including any costs for smart meters or advanced metering infrastructure whose functionality exceeds the minimum functionality adopted in O. Reg. 425/06, or costs associated with functions for which the Smart Metering Entity has the exclusive authority to carry out pursuant to O. Reg. 393/07. Such costs will be considered at the time that CNPI-FE applies for the recovery of these costs on a final basis, if applicable.

Revenue-to-Cost Ratios

Revenue-to-cost ratios measure the relationship between the revenues expected from a class of customers and the level of costs allocated to that class. The Board has established target ratio ranges (the "Target Ranges") for Ontario electricity distributors in its report *Application of Cost Allocation for Electricity Distributors*, dated November 28, 2007.

The Board's Decision (EB-2008-0222/ EB-2008-0223) for CNPI's 2009 cost of service rate application for the Fort Erie and Eastern Ontario Power service areas prescribed a phase-in period to adjust its revenue-to-cost ratios.

CNPI proposed to adjust its revenue-to-cost ratios in the current application as shown in Column 2 of Table 3.

Table 3 – CNPI's Revenue-to-Cost Ratios (%)

Rate Class	**2010 Ratio** Column 1	**Proposed 2011 Ratio** Column 2	**Target Range** Column 3

Residential	84.3	85.0	85 – 115
GS < 50 kW	123.6	120.0	80 – 120
GS 50 – 4,999 kW	140.3	137.6	80 – 180
USL	74.5	80.0	80 – 120
Sentinel Lighting	62.0	70.0	70 – 120
Street Lighting	57.6	70.0	70 – 120

Board staff submitted that the proposed revenue-to-cost ratios are in accordance with the Board's findings in its EB-2008-0222/ EB-2008-0223.

I agree that the proposed revenue-to-cost ratios are in accordance with the Board's findings referenced above. I approve the proposed revenue-to-cost ratios.

Retail Transmission Service Rates

Electricity distributors are charged the Ontario Uniform Transmission Rates ("UTRs") at the wholesale level and subsequently pass these charges on to their distribution customers through the Retail Transmission Service Rates ("RTSRs"). Variance accounts are used to capture timing differences and differences in the rate that a distributor pays for wholesale transmission service compared to the retail rate that the distributor is authorized to charge when billing its customers (i.e., variance accounts 1584 and 1586).

On July 8, 2010 the Board issued revision 2.0 of the *Guideline G-2008-0001 - Electricity Distribution Retail Transmission Service Rates* (the "RTSR Guideline"). The RTSR Guideline outlines the information that the Board requires electricity distributors to file to adjust their RTSRs for 2011. The RTSR Guideline requires electricity distributors to adjust their RTSRs based on a comparison of historical transmission costs adjusted for the new UTR levels and the revenues generated under existing RTSRs. The objective of resetting the rates is to minimize the prospective balances in accounts 1584 and 1586. In order to assist electricity distributors in the calculation of the distributor's specific RTSRs, Board staff provided a filing module. On January 18, 2011, the Board issued its Rate Order for Hydro One Transmission (EB-2010-0002) which adjusted the UTRs effective January 1, 2011. The new UTRs are shown in the following table:

Table 4 – Uniform Transmission Rates	kW Monthly Rates		Change
	Jan 1, 2010	**Jan 1, 2011**	
Network Service Rate	$2.97	$3.22	+8.4%
Connection Service Rates			
Line Connection Service Rate	$0.73	$0.79	
Transformation Connection Service Rate	$1.71	$1.77	
			+4.9%

Each distributor's rate application model has been adjusted to incorporate these changes.

Based on the filing module provided by Board staff and the new UTRs effective January 1, 2011 noted in the table above, I approve the changes to the RTSRs calculated in the filing module for both service areas.

Review and Disposition of Group 1 Deferral and Variance Accounts

The *Report of the Board on Electricity Distributors' Deferral and Variance Account Review Report* (the "EDDVAR Report") provides that, during the IRM plan term, the distributor's Group 1 account balances will be reviewed and disposed if the preset disposition threshold of $0.001 per kWh (debit or credit) is exceeded. The onus is on the distributor to justify why any account balance in excess of the threshold should not be disposed.

(i) December 31, 2008 Group 1 Account Balances

In CNPI's 2010 IRM Decision and Order (EB-2009-0216/ EB-2009-0217), the Board was concerned about the difference between the amount sought for disposition and the balances reported in CNPI-FE and CNPI-EOP's Reporting and Record-keeping Requirements ("RRR") reporting. The Board approved the disposition of December 31, 2008 Group 1 account balances and projected interest to April 30, 2010 as reported by both CNPI-FE and CNPI-EOP, but not on a final basis. The Board directed CNPI bring forward to the Board any adjustments to the 2008 Group 1 account balances in its next rate proceeding.

In its submission, Board staff noted that CNPI did not specifically address this matter in its current application and requested that CNPI address this matter in its reply submission.

CNPI submitted that the Group 1 account balances presented in the EB-2009-0216/ EB-2009-0217 proceeding remain valid and should be approved on a final basis.

I accept CNPI's December 31, 2008 Group 1 account balances and projected interest to April 30, 2010 and consider them to be final.

(ii) December 31, 2009 Group 1 Account Balances

CNPI requested that the Board review and approve the disposition of the December 31, 2009 Group 1 account balances as defined by the EDDVAR Report since the preset disposition threshold of $0.001 per kWh was exceeded for both CNPI-FE and CNPI-EOP.

For the CNPI-FE service territory, the combined total of Group 1 account balance is a debit of $824,712 (debit balances are amounts recoverable from customers). CNPI included interest on these account balances using the Board's prescribed interest rates to April 30, 2011. CNPI-FE's account balances as at December 31, 2009, plus projected carrying charges to April 30, 2011, are shown below ($'s).

Table 5 – CNPI-FE's Deferral and Variance Account Balances

Account Description	Account Number	Principal Amounts A	Interest Amounts B	Total Claim C = A + B
RSVA - Wholesale Market Service Charge	1580	(41,999)	(500)	(42,499)
RSVA - Retail Transmission Network Charge	1584	156,723	2,212	158,935
RSVA - Retail Transmission Connection Charge	1586	36,761	653	37,414
RSVA - Power (Excluding Global Adjustment)	1588	232,993	946	233,939
RSVA - Power (Global Adjustment Sub-account)	1588	428,477	9,477	437,954
Recovery of Regulatory Asset Balances	1590	(53)	(978)	(1,031)
		812,902	11,810	824,712

For the CNPI-EOP service territory, the combined total of Group 1 account balance is a credit of $104,289 (credit balances are amounts payable to customers). CNPI-EOP included interest on these account balances using the Board's prescribed interest rates to April 30, 2011. CNPI-EOP's account balances as at December 31, 2009, plus projected carrying charges to April 30, 2011, are shown below ($'s).

Table 6 – CNPI-EOP's Deferral and Variance Account Balances

Account Description	Account Number	Principal Amounts A	Interest Amounts B	Total Claim C = A + B
LV Variance Account	1550	(39,725)	835	(38,890)
RSVA - Wholesale Market Service Charge	1580	(98,643)	(1,454)	(100,097)
RSVA - Retail Transmission Network Charge	1584	(35,913)	(583)	(36,496)
RSVA - Retail Transmission Connection Charge	1586	(65,059)	(328)	(65,387)
RSVA - Power (Excluding Global Adjustment)	1588	(31,640)	(827)	(32,467)
RSVA - Power (Global Adjustment Sub-account)	1588	164,947	3,058	168,005
Recovery of Regulatory Asset Balances	1590	(3)	1,045	1,042
		(106,036)	1,747	(104,289)

In its submission, Board staff noted that the proposed balances for disposition reconcile with CNPI-FE and CNPI-EOP's RRR reporting, and that the balances should be approved for disposition on a final basis.

I approve the recovery of the proposed balances for Group 1 accounts as proposed. The December 31, 2009 balances and projected interest up to April 30, 2011 are considered final. For accounting purposes, the respective balance in each of the Group 1 accounts shall be transferred to the applicable sub-accounts in account 1595 established by the Board pursuant to the December 23, 2010 Frequently Asked Questions document accompanying the Accounting Procedures Handbook for disposition of balances in 2010, as soon as possible but no later than June 30, 2011 so that the RRR data reported in the second quarter of 2011 reflect these adjustments.

(iii) Disposition of December 31, 2009 Balances

The EDDVAR Report includes guidelines on the cost allocation methodology and the rate rider derivation for the disposition of deferral and variance account balances. I note that CNPI followed the guidelines outlined in the EDDVAR Report.

CNPI requested the disposition of its Group 1 account balance over a one year period. Board staff agreed with CNPI's proposal on the basis that this would be in accordance with the EDDVAR Report. I accept the disposition period of one year proposed.

With respect to the disposition of the global adjustment sub-account balance, the Board in its Decision and Order in CNPI's 2010 IRM application (EB-2009-0216/ EB-2009-0217) agreed that a separate rate rider should apply to non-RPP customers to dispose of the global adjustment sub-account balance. The Board however acknowledged that CNPI does not readily have the billing capability to implement such a change. Considering CNPI's billing constraints, the Board approved the disposition of the allocated global adjustment sub-account balance from all customers in the affected rate class. The Board however directed CNPI to further investigate and report to the Board in a proceeding no later than the rebasing proceeding, CNPI's projection of the costs that it would need to incur in order to accommodate the establishment of a separate rate rider to dispose of the global adjustment sub-account.

In response to Board staff interrogatory #5a, CNPI indicated it is currently updating the customer billing architecture to accommodate the smart meter initiative and Time of Use billing. CNPI also indicated its intention to be capable of implementing a separate rate rider applicable to non-RPP customers to dispose of the global adjustment sub-account coincident with this upgrade. CNPI anticipated that this upgrade will be fully implemented no later than the first quarter of 2012.

I will approve at this time the continued disposition of the global adjustment sub-account balance from all customers in the affected rate class.

Correction of 2010 Rate Rider for the General Service 50 to 4,999 kW Rate Class (CNPI-EOP)

In response to Board staff interrogatory #7a, CNPI-EOP noted that the 2010 rate rider associated with the Group 1 deferral and variance account balance allocated to the General Service 50 to 4,999 kW ("GS>50kW") rate class should have been a debit of $1.3163 per kW instead of a credit of $1.3163 per kW.

In its reply submission, CNPI-EOP suggested that they could combine the currently applied for rate rider for the GS>50kW rate class with the corrected debit rate rider of $1.3163 per kW. The resulting rate rider would have a sunset date of April 30, 2012.

CNPI-EOP can combine the currently applied for rate rider for the GS>50kW rate class with the corrected debit rate rider of $1.3163 per kW. Reversing the rate rider from a credit of $1.3163 per kW to a debit of $1.3163 per kW effective May 1, 2011 would not cancel out the debit balance that CNPI-EOP was granted approval to recover for the GS>50kW rate class (i.e. a debit balance of $76,583) because this amount has now effectively doubled due to the error. It is important to rectify these errors as soon as possible given the uncertainty of future rate changes. However, I am mindful of the impact this correction will have on the GS>50 kW, therefore CNPI-EOP is directed to recover the amount mistakenly remitted to this rate class and the original debit balance over a two year period starting May 1, 2011 and ending April 30, 2013. Since customers in this rate class are in no way at fault for the delay in the recovery of these costs, interest charges will be at the expense of the applicant. CNPI-EOP is directed to determine the appropriate rate rider not including the interest accrued to these debit balances. For clarity, the original debit balance shall be collected without an interest charge as of May 1, 2010. The amount remitted in error shall have no interest accrued to it.

THE BOARD ORDERS THAT:

1. CNPI's new distribution rates for the service areas CNPI-FE and CNPI-EOP shall be effective May 1, 2011.

2. CNPI shall file with the Board an updated 2011 IRM Deferral and Variance Account Workform reflecting my findings within seven (7) calendar days of the date of this Decision and Order. The Board will subsequently provide CNPI with rate models (spreadsheet) and applicable supporting models and a draft Tariff of Rates and Charges that reflect the elements of this Decision and Order.

All filings to the Board must quote file number **EB-2010-0070/EB-2010-0071,** be made through the Board's web portal at, www.errr.ontarioenergyboard.ca and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.ontarioenergyboard.ca. If the web portal is not available parties may email their document to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

DATED at Toronto, March 28, 2011
ONTARIO ENERGY BOARD

Original Signed By

Allan Fogwill
Managing Director
Planning & Business Services