



EB-2008-0381

IN THE MATTER OF the *Ontario Energy Board Act, 1998*,
S.O. 1998, c. 15, (Schedule B);

AND IN THE MATTER OF a proceeding commenced by the
Ontario Energy Board on its own motion to determine the
accuracy of the final account balances with respect to
Account 1562 Deferred Payments in Lieu of Taxes (for the
period October 1, 2001 to April 30, 2006) for certain 2008
and 2009 distribution rate applications before the Board.

BEFORE: Ken Quesnelle
Presiding Member

Cynthia Chaplin
Vice Chair and Member

DECISION AND ORDER

BACKGROUND

On November 28, 2008, pursuant to sections 78, 19 (4) and 21 (5) of the *Ontario Energy Board Act, 1998*, the Ontario Energy Board commenced a combined proceeding on its own motion to determine the accuracy of the final account balances with respect to Account 1562 Deferred Payments in Lieu of Taxes (“PILs”) (for the period October 1, 2001 to April 30, 2006) for certain electricity distributors that filed 2008 and 2009 distribution rate applications. The Board subsequently determined that ENWIN Utilities Ltd. (“ENWIN”), Halton Hills Hydro Inc. (“Halton Hills”) and Barrie Hydro Distribution Inc. (“Barrie”) (collectively, the “Applicants”) should provide their utility specific evidence on the disposition of account 1562 to the Board for its review.¹ File

¹ The Board had announced its intention to hold such a proceeding in a letter to all distributors issued on March 3, 2008 and at that time assigned file number EB-2007-0820.

number EB-2008-0381 was assigned to this combined proceeding.

The Notice of the combined proceeding included a statement of the Board's expectation that the decision resulting from the combined proceeding would be used to determine the final account balances with respect to account 1562 deferred PILs for the remaining distributors.²

Board staff issued a discussion paper on August 20, 2008 summarizing the principles established by the Board to date with respect to the determination of the account 1562 balances. The discussion paper also identified matters that Board staff believed were outstanding and required clarification.

A series of procedural steps, including the identification of issues, the submission of evidence, hearing of motions, technical conferences and interrogatories were conducted over several months. During that process, the Board decided to consider the evidence of three distributors – the Applicants – while the other distributors that had submitted PILS accounts for disposition, and who were initially applicants in the proceeding, were made intervenors in the proceeding.

A proposed settlement agreement was filed with the Board on September 30, 2010 (the "Settlement Agreement"). The parties reached complete settlement on 17 issues, incomplete settlement on 2 issues, and no settlement on 3 issues. In its Decision and Procedural Order No. 9 dated December 23, 2010 the Board accepted the Settlement Agreement with the exception of one issue related to the retention of account 1562 and set out a series of procedural steps to deal with the unsettled issues.

Board Findings

The Board's Decision and Order on the unsettled issues was issued on June 24, 2011. In that Decision and Order, the Applicants were directed to file revised evidence in support of the balances in account 1562 deferred PILs after ensuring that the evidence reflected the Board's findings. By July 12, 2011 the Board received the updated evidence consisting of spreadsheets and explanations of the changes made to previously filed evidence. The Board has considered the revised evidence filed in support of the balances for each of the Applicants and has concluded that the amounts

² Those electricity distributors that are affected by section 93 of the *Electricity Act, 1998*

are consistent with the Settlement Agreement and the Decision and Order, and the Board is therefore approving the final balances as follows:

- ENWIN: The Board approves a debit balance of \$5,227,019 to be recovered from customers through ENWIN's 2012 application and rate adjustment. The balance includes interest carrying charges forecast to April 30, 2012 using interest rates approved by the Board up to the third quarter 2011.
- Barrie (now part of PowerStream Inc. "PowerStream"): The Board approves a credit balance of \$565,583 to be refunded to customers in the former Barrie service area through PowerStream's 2012 application and rate adjustment. The balance includes interest forecast to April 30, 2012 using interest rates approved by the Board up to the third quarter 2011.
- Halton Hills: The Board approves a credit balance of \$435,792, as of April 30, 2006, to be refunded to customers through Halton Hills' 2012 application and rate adjustment. Halton Hills did not forecast interest carrying charges to April 30, 2012. In order to finalize the balance for disposition, Halton Hills will be required to provide the interest calculations for the period May 1, 2006 through April 30, 2012 as part of its 2012 application.

COST AWARDS

In its Decision and Order dated June 24, 2011, the Board granted School Energy Coalition ("SEC"), Vulnerable Energy Consumers Coalition ("VECC"), Consumers Council of Canada ("CCC"), Energy Probe, Pollution Probe Foundation and Association of Major Power Consumers of Ontario ("AMPCO") intervenor status and cost award eligibility. Together, these parties will be referred to as the "eligible participants".

As originally stated in the Notice of Hearing, any costs awarded in this proceeding shall be paid by all rate-regulated electricity distributors that are required to pay PILs taxes in accordance with section 93 of the *Electricity Act, 1998*. Cost awards will not be recovered from distributors whose rates are not currently fixed or approved by the Board (namely Cornwall Street Railway, Light and Power Company Ltd. and Dubreuil Forest Products Ltd.) or from distributors that are not subject to PILs under section 93 of the *Electricity Act, 1998* (namely, Attawapiskat Power Corporation, Fort Albany Power Corporation, Kashechewan Power Corporation, Hydro One Remote

Communities Inc., Hydro One Networks Inc., Hydro One Brampton Networks Inc., Great Lakes Power Ltd. (now Algoma Power Inc.) and Canadian Niagara Power Inc.)

Any costs awarded by the Board will be allocated to distributors who are to pay the cost awards based on distribution revenues.

The Decision and Order directed intervenors to file cost claims by July 15, 2011. The date for distributors to object to any cost claims was July 29, 2011.

The Board received cost claims from SEC and CCC within the deadline specified in the Decision and Order. No objections to the filed cost claims were received from the distributors.

Board Findings on the Cost Claims of the Eligible Participants

The Board has reviewed the cost claims filed by SEC and CCC.

The Board has adjusted CCC's total cost claim by allocating the correct GST and HST portion of the cost claim. Of the total number of hours, 33.5 hours for preparation have the GST applied and the remaining 2.5 hours have the HST applied. GST has been applied to 16.5 hours for attendance and 10.5 hours for argument have the HST applied.

The Board finds that SEC and CCC are eligible to recover 100% of their reasonably incurred costs of participating in this proceeding. The Board finds that both claims, adjusted as described above, are reasonable. The totals are as follows:

- SEC: \$57,784.64
- CCC: \$20,097.95

The amount payable by each distributor in relation to the costs awarded to each eligible participant is listed in Appendix A to this Decision and Order.

Process for Paying the Cost Awards

The Board will use the process set out in section 12 of its *Practice Direction on Cost*

Awards to implement the payment of cost awards. Therefore, the Board will act as a clearing house for all payments of cost awards in this process. Invoices will be issued to the distributors at the same time as invoices for cost assessments are made under section 26 of the *Act*. The practice of the Board is to issue to each distributor one invoice that covers all cost awards payable by that distributor for the relevant period. As a result, the invoice may cover cost awards payable in relation to a number of consultations, including this proceeding.

THE BOARD ORDERS THAT:

1. The Applicants shall file for disposition of the approved balances in their account 1562 deferred PILS in their 2012 rate applications.
2. The amounts to be paid by each distributor in relation to the costs awarded to each eligible participant are set out in Appendix A to this Decision and Order.
3. The individual distributors listed in Appendix A to this Decision and Order shall pay the costs awarded to each of the eligible participants as set out in Appendix A.
4. Payment of cost awards referred to in paragraph 2 shall be made to the Ontario Energy Board in accordance with the invoice issued to the distributor, and shall be due at the same time as cost assessments under section 26 of the *Act* are due.

DATED at Toronto, August 12, 2011
ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

APPENDIX A

TO

DECISION AND ORDER

ACCOUNT 1562 DEFERRED PILs

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COST AWARDS

APPENDIX A

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Rate-regulated Distributors Subject to Section 93 PILs Cost Awards

Electricity Distribution System Owner/Operator	CCC	SEC	Total
Atikokan Hydro Inc.	15.22	43.75	58.96
Bluewater Power Distribution Corp.	219.80	631.96	851.76
Brant County Power Inc.	70.49	202.68	273.18
Brantford Power Inc.	183.12	526.48	709.60
Burlington Hydro Inc.	324.49	932.95	1,257.43
Cambridge And North Dumfries Hydro Inc.	245.78	706.67	952.45
Centre Wellington Hydro Ltd.	32.71	94.05	126.77
Chapleau Public Utilities Corp.	7.86	22.60	30.46
Chatham-Kent Hydro Inc.	157.82	453.75	611.57
Collus Power Corp.	63.60	182.86	246.46
Cooperative Hydro Embrun Inc.	7.05	20.27	27.32
E.L.K. Energy Inc.	53.90	154.96	208.85
Enersource Hydro Mississauga Inc.	1,371.73	3,943.93	5,315.66
Enwin Utilities Ltd.	563.80	1,621.00	2,184.79
Erie Thames Powerlines Corp.	88.18	253.53	341.71
Espanola Regional Hydro Distribution Corp.	15.78	45.37	61.15
Essex Powerlines Corp.	117.16	336.85	454.02
Festival Hydro Inc.	111.16	319.61	430.77
Fort Frances Power Corp.	18.09	52.01	70.10
Greater Sudbury Hydro Inc.	263.98	758.98	1,022.96
Grimsby Power Inc.	41.13	118.26	159.39
Guelph Hydro Electric Systems Inc.	282.09	811.06	1,093.15
Haldimand County Hydro Inc.	161.86	465.36	627.22
Halton Hills Hydro Inc.	112.39	323.14	435.53
Horizon Utilities Corp.	1,035.10	2,976.06	4,011.15
Hydro Hawkesbury Inc.	14.26	40.99	55.25
Hearst Power Distribution Company Ltd.	10.64	30.59	41.23
Hydro 2000 Inc.	4.02	11.57	15.60
Hydro Ottawa Ltd.	1,705.89	4,904.70	6,610.60
Innisfil Hydro Distribution Systems Ltd.	89.72	257.97	347.69
Kenora Hydro Electric Corporation Ltd.	25.46	73.21	98.68
Kingston Hydro Corp.	120.87	347.53	468.41
Kitchener-Wilmot Hydro Inc.	387.68	1,114.63	1,502.30
Lakefront Utilities Inc.	51.02	146.70	197.72
Lakeland Power Distribution Ltd.	53.29	153.23	206.52
London Hydro Inc.	665.68	1,913.93	2,579.61
Middlesex Power Distribution Corp.	36.62	105.30	141.92
Midland Power Utility Corp.	38.75	111.40	150.14
Milton Hydro Distribution Inc.	141.78	407.64	549.42
Newmarket - Tay Power Distribution Ltd.	181.42	521.60	703.02
Niagara Peninsula Energy Inc.	320.93	922.71	1,243.64
Niagara-On-The-Lake Hydro Inc.	54.57	156.91	211.48
Norfolk Power Distribution Inc.	132.41	380.70	513.11
North Bay Hydro Distribution Ltd.	122.34	351.74	474.07
Northern Ontario Wires Inc.	30.25	86.96	117.21

Oakville Hydro Electricity Distribution Inc.	341.08	980.67	1,321.75
Orangeville Hydro Ltd.	54.48	156.65	211.13
Orillia Power Distribution Corp.	80.01	230.05	310.07
Oshawa Puc Networks Inc.	231.41	665.35	896.76
Ottawa River Power Corp.	42.88	123.27	166.15
Parry Sound Power Corp.	20.58	59.18	79.77
Peterborough Distribution Inc.	166.70	479.28	645.98
PowerStream Inc.	1,789.82	5,146.00	6,935.82
PUC Distribution Inc.	183.35	527.15	710.50
Renfrew Hydro Inc.	19.34	55.61	74.95
Rideau St. Lawrence Distribution Inc.	25.38	72.97	98.34
St. Thomas Energy Inc.	74.53	214.27	288.80
Sioux Lookout Hydro Inc.	21.99	63.24	85.23
Thunder Bay Hydro Electricity Distribution Inc.	211.24	607.34	818.57
Tillsonburg Hydro Inc.	32.78	94.26	127.04
Toronto Hydro-Electric System Ltd.	5,623.96	16,169.73	21,793.68
Veridian Connections Inc.	543.47	1,562.55	2,106.01
Wasaga Distribution Inc.	45.69	131.37	177.06
Waterloo North Hydro Inc.	300.64	864.39	1,165.03
Welland Hydro-Electric System Corp.	96.54	277.56	374.10
Wellington North Power Inc.	22.42	64.46	86.88
West Coast Huron Energy Inc.	22.77	65.48	88.25
Westario Power Inc.	99.43	285.88	385.32
Whitby Hydro Electric Corp.	216.87	623.53	840.39
Woodstock Hydro Services Inc.	78.70	226.27	304.97
TOTAL	20,097.95	57,784.64	77,882.59