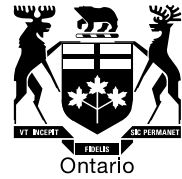


Ontario Energy Board
P.O. Box 2319
27th. Floor
2300 Yonge Street
Toronto ON M4P 1E4
Telephone: 416- 481-1967
Facsimile: 416- 440-7656
Toll free: 1-888-632-6273

**Commission de l'énergie
de l'Ontario**
C.P. 2319
27e étage
2300, rue Yonge
Toronto ON M4P 1E4
Téléphone: 416-481-1967
Télécopieur: 416-440-7656
Numéro sans frais: 1-888-632-6273



VIA E-MAIL

September 13, 2011

To: Electricity Distributors subject to Payments in Lieu of Taxes (PILs) under section 93 of the *Electricity Act, 1998*

Re: 2012 EDR – Disposition of account 1562 deferred PILs

The Board issued its Decision and Order in the EB-2008-0381 Account 1562 Deferred PILs Combined Proceeding (the “Combined Proceeding”) on June 24, 2011 (the “Decision”). The Board stated that it expects all electricity distributors subject to section 93 of the *Electricity Act, 1998* to file for disposition of the balances in account 1562 deferred PILs in their 2012 rate applications. This letter from Board staff is intended to provide further guidance to distributors related to clearing account 1562 deferred PILs balances.

Revised Models

In the Combined Proceeding, Halton Hills Hydro Inc. filed revised spreadsheet implementation models for payments in lieu of taxes (“SIMPIL”) to calculate the balance in account 1562 deferred PILs. In its application EB-2010-0132, Hydro One Brampton Networks Inc. also filed revised SIMPIL models. Earlier versions of SIMPIL models that were released for Reporting and Record Keeping Requirements (“RRR”) filings in 2001 and 2003 contained errors. Given the availability of these two sets of models, the Board does not intend to release new SIMPIL models for other distributors. As noted in the Decision:

If the distributor files evidence in accordance with all the various decisions made in the course of this proceeding, including the use of the updated model referenced above and certifies to that effect, the distributor may expect that the determination of the final account balance will be handled expeditiously and in a largely administrative manner.¹

¹ EB-2008-0381, Decision and Order, Page 28 Account 1562 Deferred PILs Combined Proceeding

The revised SIMPIL models allow distributors to more easily calculate the final balance in accordance with the Board's findings in its Decision, and the Board-accepted settlement agreement, which together clarify the established methodology. Items that do not true up to ratepayers can be isolated in the revised models while still allowing the applicant to tie back exactly to the numbers from the tax returns.

Next Steps from Combined Proceeding

The Combined Proceeding was not a generic proceeding. The issues examined and the Board findings relate to the evidence submitted by the three applicants in that proceeding. As per the Board's expectations referenced above, filings in accordance with various Board decisions are expected to be handled "expeditiously and in a largely administrative manner". Those distributors filing applications that differ in fact and or depart from the established methodology, or that include issues not considered as part of the Combined Proceeding, should not file as part of an incentive regulation mechanism ("IRM") application, and should provide supporting evidence commensurate with the issue(s) to be reviewed. In the Decision, the Board noted:

*Distributors are of course able to file on a basis which differs from that which is contemplated by the decisions in this proceeding. In that event, the application can be expected to take some time to process, and therefore, should not be made as part of an IRM application.*²

Key Elements to Consider For Account 1562 Deferred PILs

While many issues were dealt with during the combined proceeding, there are a few elements of the established methodology that staff would like to highlight.

- Regulatory assets and liabilities when created, collected, reserved for, or provided against, etc. must be excluded from the calculation of the balance that trues up to ratepayers.
- The excess interest claw-back forms part of the established methodology. If the distributor is subject to the claw-back and plans to file an application that deviates from this established policy, evidence must be provided to support and to justify the adopted approach. Any such application should include two SIMPIL models – one which reflects the methodology and another which reflects the contrary argument. Please refer to Halton Hills' and Hydro One Brampton's evidence for further information.
- Distributors must adequately support the income tax rates chosen for each year. The tax rate to compute the tax impact includes the surtax expressed as 1.12%. The tax rate for true-up calculations excludes the surtax rate of 1.12%.
- Errors are not an articulation of Board policy and must be corrected.
- The applicant must choose a materiality threshold and use it consistently for the entire period. Zero is one of the choices.

² ibid

- The final tax return numbers for each year must be used in the SIMPIL models. Any tax assessments, reassessments and statements of adjustments must be reviewed to determine if there are income tax items that may true up under the methodology.
- Adjustments to depreciation due to reallocations do not true up to ratepayers and must be isolated in SIMPIL.
- Adding back the accounting number and deducting the tax amount of related items on T2 Schedule 1 should be netted together if the distributor has chosen a materiality threshold greater than zero to ensure that both sides of the related transaction are treated the same way in SIMPIL.
- In the 2005 EDR, a deduction for CDM expenses was made in the PILs proxy model. The applicant should ensure that there is a corresponding tax (accounting) amount recorded on the same row in SIMPIL to determine the appropriate true-up.
- If the applicant uses models filed in one of the other proceedings, please delete extraneous comments and notations that do not apply to the applicant's own evidence.

Information to File in Applications

Some distributors have filed their 2012 cost of service applications. Board staff recently submitted interrogatories in the Oshawa PUC case EB-2011-0073 (Board Staff Interrogatory #60)³ in which Oshawa was asked to file a number of models, schedules and documents, and to confirm their approach to account 1562 deferred PILs on a number of issues. Board staff anticipates that similar interrogatories will be sent to all other distributors that have not filed this information as part of their evidence. It would expedite matters if this information is filed with all applications to clear account 1562 deferred PILs. For convenience, the link to the interrogatories for Oshawa PUC is shown below in the footnote. Board staff encourages distributors and their advisors to examine these closely.

To ensure that you are filing the correct evidence, distributors should verify that the numbers in the Board-approved rate schedule attached to the **signed** Board decision for each year matches the rate application filing models (including the rate adjustment model ("RAM") and the PILs Proxy model). The PILs proxy model forms one part of the SIMPIL reconciliation.

Contact Information

Parties should review the materials from the Combined Proceeding that can be found on the Board's website. Parties who may require guidance in finding the documents identified in this letter may contact Board staff. Any questions relating to this process

3

http://www.rds.ontarioenergyboard.ca/webdrawer/webdrawer.dll/webdrawer/rec/290191/view/BdStaff_IRs_OPUCN_20110811.PDF

See pages 23-25.

should be directed to Duncan Skinner, Special Advisor, by e-mail at Duncan.Skinner@ontarioenergyboard.ca or by telephone at 416-440-8127. The Board's toll free number is 1-888-632-6273.

Yours truly,

Original Signed By

Lynne Anderson
Managing Director, Applications & Regulatory Audit