



CANADIAN NIAGARA POWER INC.

A **FORTIS** ONTARIO
Company

November 14, 2011

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
Suite 2700
P.O. Box 2319
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Canadian Niagara Power Inc. – Fort Erie and Eastern Ontario Power
2012 Incentive Regulation Mechanism Rate Application
Application Board File Number EB-2011-0158
Disposition of Account 1562 (Deferred PILS)**

Dear Ms. Walli:

In its 2012 IRM3 Application, CNPI indicated that it is not proposing disposition of Account 1562, Deferred Payments in Lieu of Taxes in its Application. CNPI went on to state that it will address this matter in its next Cost of Service proceeding. CNPI intends to file its next cost of service application in 2012 for rates effective January 1, 2013.

The main consideration in CNPI's choice to defer the matter stems from the Board's statement on page 28 of the Decision and Order of its Decision and Order in the matter of EB-2008-0381, the Deferred PILs Combined Proceeding, where the Board stated,

"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.

*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.**"* [Emphasis Added]

CNPI believes that it will be required to file on a basis which differs significantly from that which is contemplated by the decisions in the Deferred PILs Combined Proceeding. CNPI is a corporation controlled by a public corporation and as such is subject to federal income tax rules. CNPI does not pay PILs. CNPI files a single income tax return which is allocated to its operating service territories. These allocations were approved in CNPI's last Cost of Service Applications; EB-2008-0222, EB-2008-0223 and EB-2008-0224. CNPI believes that the added level of complexity introduced by the fact that CNPI files a single income tax return and remits a single tax payment to the Federal Government that is allocated, for rate making purposes, first between distribution and transmission and then among the distribution operating territories may introduce complexities beyond those submissions examined in the Deferred PILs Combined Proceeding. Complicating matters further is the implementation of the lease of Port Colborne Hydro Inc.'s distribution system by CNPI on April 15, 2002 and the acquisition of Granite Power Distribution Corporation by CNPI on March 21, 2003. Both of the events were significant changes to the corporation. It is for these reasons that CNPI will likely have to file evidence that differs significantly from that which was contemplated by the Board's Decision in EB-2008-0381.

CNPI believes that disposition of its Account 1562, Deferred Payments in Lieu of Taxes, cannot be dealt with expeditiously in an administrative manner should not be made as part of its IRM3 application.

Yours truly,

Original Signed By

Douglas R. Bradbury, P. Eng.
Director, Regulatory Affairs