

**Hydro One Brampton Networks Inc.**

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November 24, 2011

Ms. Kirsten Walli, Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Hydro One Brampton Networks Inc. 2012 IRM3 Distribution Rate Application  
Response to OEB and VECC Submissions (Board File No. EB-2011-0174)**

In response to the Ontario Energy Board's ("the Board") Staff and the Vulnerable Energy Consumers Coalition ("VECC") submissions dated November 17, 2011, Hydro One Brampton Networks Inc. ("Hydro One Brampton") respectfully submits its responses.

Please find attached to this letter, two paper copies of Hydro One Brampton's responses to the Board Staff and VECC submissions for the 2012 IRM3 Electricity Distribution Rate Application.

We would be pleased to provide any additional information that the Board requires in review of Hydro One Brampton's responses to the Board Staff Interrogatories. If additional information is required, please contact the undersigned.

Sincerely,

A handwritten signature in black ink that reads "Scott Miller". The signature is written in a cursive, flowing style.

Scott Miller  
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cc: Remy Fernandes, President & CEO, Hydro One Brampton Networks Inc.  
Aldo Mastrofrancesco, Vice President of Engineering & Operations, Hydro One  
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Michael Buonaguro, Counsel for VECC

Encl.

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## **APPLICATION FOR APPROVAL OF 2012 ELECTRICITY DISTRIBUTION RATES RESPONSE TO BOARD STAFF AND VECC SUBMISSIONS**

### **Introduction**

Hydro One Brampton Networks Inc. ("HOBNI") filed an application with the Ontario Energy Board (the "Board"), on September 16, 2011, under section 78 of the *Ontario Energy Board Act, 1998*, seeking approval for changes to the distribution rates that HOBNI charges for electricity distribution, to be effective January 1, 2012. The Application is based on the 2012 3<sup>rd</sup> Generation Incentive Regulation Mechanism.

On November 3, 2011, HOBNI received a series of interrogatories from Board staff and the Vulnerable Energy Consumers Coalition ("VECC"). On November 10, 2011, HOBNI responded to those interrogatories. On November 17, 2011, HOBNI received Board staff's and VECC's submissions pertaining to the application. HOBNI submits this document in response to Board staff's and VECC's submissions.

### **Submissions were made by Board staff and VECC on the following matters:**

- LRAM; and
- PILs

### **LRAM**

HOBNI has submitted an application for recovery of lost revenues using the Board-created Lost Revenue Adjustment Mechanism (LRAM). In preparing this application, HOBNI has carefully reviewed the Board's requirements and engaged a third-party consultant to assist in making this claim. The claim for lost revenues relate to revenues lost due to HOBNI's Conservation and Demand Management (CDM) initiatives. These claims do not include lost revenues already claimed in previous proceedings, or for CDM impacts already accounted for in the most recent Board approved load forecast, submitted as part of HOBNI's 2011 Cost of Service application.

HOBNI has made some adjustments to the amounts originally filed as part of HOBNI's 2012 IRM application. These changes are a result of the incorporation of newly available final results from the OPA for CDM programs initiated in 2010. In addition, HOBNI has removed the portion of energy savings in that were included in the 2011 load forecast associated with 2009 CDM programs.

Board staff and VECC have provided submissions that are supportive of certain aspects of HOBNI's LRAM claim, as adjusted during the interrogatory process, and have requested adjustments due to other aspects. The following are the matters that HOBNI will address:

*LRAM Claim for 2011 for 2009 & 2010 CDM Programs*

VECC and Board Staff do not support HOBNI's LRAM claim for the 2011 year because they state the 2011 load forecast took into consideration CDM programs for all years up to and including the 2011 forecast year.

The load forecast methodology utilized by HOBNI in its 2011 Cost of Service rate application used a regression analysis approach that included historical actual data up to the end of 2009. Historical load reductions for program years up to and including 2009 carried forward and became implicit in its 2011 load forecast. HOBNI agrees that reduction in load associated with these programs will be reflected in the 2011 load forecast. HOBNI will reduce its LRAM claim by \$18,409 (from \$609,077 to \$590,668) to exclude its 2011 claim pertaining to 2009 CDM programs. The table below shows the updated LRAM claim per year.

**Table 1: Revised LRAM Claim**

	LRAM claimed in:			Total
	2009	2010	2011	
2009 programs	\$124,213	\$121,065		\$245,278
2010 programs		\$183,580	\$161,811	\$345,390
<b>Total LRAM claim</b>	<b>\$124,213</b>	<b>\$304,645</b>	<b>\$161,811</b>	<b>\$590,668</b>

In addition, HOBNI's 2011 load forecast was reduced by 19 GWH for estimated load reductions for 2011 relating to 2011 CDM programs based on 10% of its cumulative CDM target for the period 2011-2014.

HOBNI submits that load reductions associated with its 2010 CDM programs were not accounted for in its 2011 load forecast, nor was the 19 GWH board approved reduction. HOBNI filed its 2011 load forecast with its 2011 Cost of Service rate application on June 30, 2010.

Savings for 2010 programs from the OPA evaluations were made available to HOBNI only in September of this year. They were not available to be incorporated into HOBNI's 2011 load forecast at the time of its Cost of Service rate application. Since HOBNI could not forecast reductions to the 2011 load forecast for 2010 CDM programs, HOBNI is appropriately claiming LRAM on these unforecasted load reductions. The 19 GWH load reduction that the Board

approved in its 2011 load forecast did not include any allowance for HOBNI's 2010 CDM programs.

HOBNI submits that both the LRAM claim and forecasts should be based on the best available information and should be consistent. HOBNI submits that it is not reasonable to suggest that lost revenues from a program should not be recoverable when the savings from those programs were not available at the time of the load forecast and were not incorporated into the forecast.

Board staff and VECC quote the following from the CDM Guidelines:

Lost revenues are only accruable until new rates (Based on a new revenue requirement and load forecast) are set by the Board, as the savings would be assumed to be incorporated in the load forecast at that time.

HOBNI understands that lost revenues associated with historic programs are to be incorporated into the load forecast and not to be claimed again. HOBNI has complied with this requirement for program years where it was able to incorporate historic programs into its 2011 load forecast. In HOBNI's case, the assumption that the savings for the 2010 CDM programs could be incorporated in HOBNI's 2011 load forecast is not valid, because HOBNI was unable to forecast its 2010 CDM program load reductions.

HOBNI should not be penalized because it was unable to forecast its 2010 CDM program load reductions. The LRAM mechanism exists to keep distributors revenue neutral when implementing CDM programs. HOBNI did not have data to incorporate its 2010 CDM program load reductions into its 2011 load forecast, so in order to be kept revenue neutral it requires recovery of LRAM claims for 2010 programs.

*LRAM Claim for 2010 CDM programs for 2011 before the end of 2011*

HOBNI understands and agrees that LRAM is to be a retrospective mechanism; HOBNI has not made a claim for 2010 CDM programs in 2011 that are not finished being rolled out. Rather, the savings claimed for 2011 are for CDM programs delivered in 2010, which lead to reductions in demand in 2011. HOBNI is not forecasting the number of measures that were installed in 2010, but rather reporting the actual savings associated with measures that were installed in 2010, and their implications on revenues in 2011.

The 2010 CDM program load reductions are savings amounts that were not in the last LRAM claim, were not incorporated into the forecast for 2011 prepared in June 2010 (because final program data for 2010 programs were not available), and were not based on CDM activities undertaken in 2011. The impacts of these programs will not change between now and the end of 2011, so there is therefore no legitimate reason why they should be excluded from the LRAM claim.

Board staff state:

*“Hydro One Brampton has used the input assumptions that were in place prior to the end of the 2011 program year to calculate its LRAM claim. Board staff submits that these may not be found to be the best assumptions to determine Hydro One Brampton’s actual losses Board staff submits that Hydro One Brampton should be required to track any differences between the 2011 lost revenues it has included in this application (\$180,200) and the input assumptions in place at the time it files its next rate application.”<sup>1</sup>*

In determining its 2011 load reductions pertaining to 2010 CDM programs, HOBNI did not rely in any way on the OPA Measures and Assumptions list, which contains generic data on measures drawn from the literature, previous evaluations and other sources. Rather, HOBNI drew exclusively on the OPA program-specific evaluation and on results that OPA has identified as ‘final’. HOBNI submits that the data it used is the best data available and is reliable enough to be used to determine the LRAM claim.

In addition, HOBNI was not asked to track differences in lost revenues that would result where actual load reductions for 2011 CDM programs are different from its forecast load reductions included in its 2011 Cost of Service load forecast. HOBNI submits that tracking differences in lost revenues for 2010 CDM programs in 2011 would be inconsistent with the Board’s decision on HOBNI’s 2011 Cost of Service application (EB-2010-0132).

The information for 2011 lost revenues resulting from 2010 programs is available now and is identified as final by the OPA who commissioned program-specific evaluations and reported savings from the measures installed over each year of the life of these programs. Other information required for calculating lost revenues, such as distribution rates, is also set and will not change between now and the end of the year. Consequently, there is no reason to presume that this part of the LRAM claim will be different in January or later from what it is today, and thus there is no reason why it should be excluded.

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<sup>1</sup> Board Submission, 2012 IRM (EB-2011-0174) Page 6 Paragraph 3

In this rate application, HOBNI has applied for recovery of lost revenue to the end of 2011 for 2010 CDM programs. This is consistent with HOBNI's LRAM claim from its 2011 Cost of Service rate application, when it sought recovery of LRAM to December 31, 2010. These amounts were approved by the Board. HOBNI respectfully submits that it is appropriate for the Board to approve its LRAM claim.

*Input assumption related to CFLs installed as part of the 2009 EKC Power Savings Event program*

For all measures in all programs of HOBNI's requested LRAM claim, HOBNI used final OPA-verified program evaluations. The OPA advises that these evaluations are prepared in a manner consistent with OPA current practice and are the same values used to report progress against provincial conservation targets. VECC confirms in its submission that it accepts final 2009 and 2010 OPA program results for the purposes of LRAM claims. All input values used are up-to-date and appropriate, and there is no reason to use different input values.

*Conclusion*

For the reasons outlined above, HOBNI submits that the Board should approve HOBNI's revised LRAM claim of \$590,688.

## **Disposition of the Balance in Account 1562 PILs**

### Background

#### *Establishment of Account 1562 Payments in Lieu of Taxes*

The Board approved a regulatory PILs tax proxy approach in 2001 for rate applications, coupled with a true-up mechanism filed under the Reporting and Record-keeping Requirements ("RRR") to account for changes in tax legislation and rules and to true-up between certain proxy amounts used to set rates and the actual amounts. The variances resulting from the true-up were tracked in account 1562 for the period 2001 through April 30, 2006. As directed, HOBNI tracked these variances and recorded them in account 1562 for the duration of the true-up period.

*Account 1562 disposition request in HOBNI's 2011 Cost of Service Rate Application*

In its 2011 Cost of Service Rate Application (EB-2010-0132), HOBNI proposed to dispose of the balance in its Deferred Payments In Lieu of Taxes Account 1562. As part of that proceeding, HOBNI submitted evidence supporting the disposition of the balance of account 1562, including all supporting SIMPIL models for 2001 to 2005. In Board staff's Interrogatories #56 to #73 of that proceeding<sup>2</sup>, questions and requests for additional evidence pertaining to the disposition of Account 1562 were requested. As part of HOBNI's responses to Board staff's Interrogatories, HOBNI refiled all SIMPIL models addressing issues raised by Board staff. Board staff's Interrogatories were comprehensive and covered many areas, including issues that were associated with the Combined Proceeding ([EB-2008-0381](#)).

Board staff's technical conference questions 9 to 14 related to the remaining issues pertaining to the disposition of account 1562 as follows<sup>3</sup>:

- TC Question 9 – drawdown of account 1563.
- TC Question 10 – treatment of the 2001 stub-period true-up items in 2002 through 2004.
- TC Question 11 – exclusion of regulatory assets/liability movements from PILs calculations.
- TC Question 12 – income tax rates for 2001 to 2005.
- TC Question 13 – Interest Clawback.

Technical conference question number 13 pertained to interest clawback and the interest expense related to it. The Board ruled on the interest clawback issue as part of HOBNI's Cost of Service rate application. Board staff's Interrogatories and technical conference questions pertaining to HOBNI's proposal for disposition of the balance of account 1562 during HOBNI's Cost of Service rate application were comprehensive. HOBNI provided all evidence and supporting documentation requested and addressed all issues raised by Board staff. Interest expense was not an issue throughout the application.

During the Oral Hearing, the Board determined that it would not decide on the disposition of the balance of account 1562, since the Combined Proceeding ([EB-2008-0381](#)) had not concluded. However, the Board determined it would make a decision relating to two components of the PILs account, one of which was the interest clawback issue.

In its [Decision and Order EB-2010-0132](#), the Board found that the interest clawback issue was within the scope of that proceeding<sup>4</sup>; and thus, the interest expense associated with this issue

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<sup>2</sup> [Board staff Interrogatories dated September 9, 2010](#)

<sup>3</sup> [Board Staff technical conference questions dated October 8, 2010.](#)

<sup>4</sup> Decision and Order EB-2010-0132, Page 46, Board Findings Paragraph 2



was included. The Board made a decision on this issue<sup>5</sup>. In the Board's decision, the interest expense utilized by HOBNI in the SIMPIL models to calculate the interest clawback was never in dispute. The Board directed HOBNI to file live Excel versions of the SIMPIL worksheets for all applicable years. As requested, HOBNI filed the revised calculations as part of the draft Rate Order in that proceeding. The Board stated that *"while the Board will not be disposing of account 1562 in this proceeding, the Board would be assisted by parties' comments on the accuracy of the revised calculations as part of the comment period on the draft Rate Order"*<sup>6</sup>. The Board did not ask HOBNI to make any further revisions to its PILs calculations.

#### *Combined Proceeding for final account balances of account 1562*

During the Combined Proceeding ([EB-2008-0381](#)), interest expense used in the interest clawback calculations was also never challenged. Neither the methodology implicit in the SIMPIL model nor the methods in which distributors used the SIMPIL model pertaining to interest expense were disputed. Regarding the matter of what is comprised by interest expense, there was no disagreement by any of the parties to the proceeding.

#### *Methodology – Interest portion of true-up*

The SIMPIL income tax true-up methodology pertaining to the interest portion of the true-up has not changed since the SIMPIL true up models were established. The interest expense amount used in the SIMPIL model is based on the inputs required in Section B: "Financial statements data" in the TAXREC tab of the SIMPIL model. In the TAXREC tab on row 51 of the SIMPIL model under the description "Less: Interest expense for accounting purposes", distributors were instructed to use the amount from the "actual category" of the income statement. An excerpt of the instructions contained in the SIMPIL Model is provided below in Table 2. HOBNI has complied with the Board's instructions associated with running the SIMPIL models pertaining to the interest portion of the true-up for the duration of the PILS true-up period from 2001 to 2005.

**Table 2: Instructions in SIMPIL model TAXREC TAB**

<b>Section B: Financial statements data:</b>			
<i>Input unconsolidated financial statement data submitted with Tax returns.</i>			
<i>The actual categories of the income statements should be used.</i>			
<i>If required please change the descriptions except for amortization, interest expense and provision for income tax</i>			

<sup>5</sup> Decision and Order EB-2010-0132, Page 54, Paragraph 4

<sup>6</sup> Decision and Order EB-2010-0132, Page 55, Paragraph 3

The interest expense from the audited Financial Statements is input in TAXREC sheet cell E51. This value is carried over to the TAXCALC sheet cell G37. This amount, plus interest capitalized for accounting, but deducted for tax (if any), is used as interest expense for the interest portion of the true-up. HOBNI has been compliant with, and has consistently applied, the Board-approved true-up methodology. HOBNI used the SIMPIL models that were used by Halton Hills Hydro Inc. in its submissions during the Combined Proceeding, as required by the Board.

## Issues

### *Interest Expense definition in SIMPIL true-up*

Board staff indicates in the [Staff Submission \(EB-2011-0174\)](#) that HOBNI “defines interest expense for the purpose of the interest claw-back penalty as the interest reported in its financial statements”. HOBNI’s response is that it did not establish its own definition of what HOBNI thought the interest expense ought to be in the SIMPIL model. The SIMPIL model determines the amounts to be used as per the section above “*Methodology – Interest portion of true-up*”. HOBNI has consistently followed Board’s instructions associated with the population of data required for the PILS models.

During 2001 and 2002, HOBNI capitalized interest for accounting purposes. In the SIMPIL models for those years, HOBNI input these values in cell C109 “Interest capitalized for accounting deducted for tax” of the TAXREC tab of the SIMPIL models. HOBNI made no changes to the SIMPIL models that would enable the adding back of capitalized interest: the SIMPIL models were formulated to do this.

### *Interest Income used as an offset to Interest Expense*

HOBNI submits that its treatments of interest income as part of the rolled-up interest expense per its Audited Financial Statements is not conceptually unique. The rollup of accounts into separate categories for Financial Reporting purposes can differ between distributors. HOBNI followed the instructions in the SIMPIL model pertaining to interest expense. Distributors were not required to do any reclassifications of the interest expense amounts that were reported in the Audited Financial Statements.

### *Interest on Customer Deposits and Prudential Costs*

HOBNI has included Interest on Customer Deposits in the determination of total interest expense, since these costs roll up as part of the interest expense per its Audited Financial Statements. HOBNI did not make any adjustments to the values used in the SIMPIL model from its Audited Financial Statements.

If the Board establishes a new generic PILs issue and revised the method in which Interest Expense is to be determined for interest clawback purposes, HOBNI would submit that Interest on Customer Deposits and Interest Income are related. Distributors collect deposits from customers and earn interest on those deposits through their bank balances. Distributors subsequently return interest to customers based on how long Customer Deposits were retained by the distributor during the year. HOBNI submits that interest income and interest on customer deposits should be grouped together.

### *Interest Income and Interest Expense on Regulatory Asset and Liability Balances*

In the Board's [Decision and Order EB-2010-0132](#), HOBNI was directed as part of the draft Rate Order to exclude Regulatory Assets and Liability Balances in calculating the balance in account 1562<sup>7</sup>. HOBNI fully complied. HOBNI used the interest expense amount from the financial statements as per the SIMPIL model instructions. The Board did not order HOBNI to update its interest expense pertaining to Interest on Regulatory Asset and Liability Balances as part of the draft Rate Order. The Board accepted HOBNI's revised SIMPIL models and did not request HOBNI to make any further revisions. HOBNI has complied consistently with the Board's orders and states that no additional adjustments are required.

### *Tax Basis of Amortization of Deferred Debt Issue Costs*

HOBNI has complied with the PILs requirements when completing the SIMPIL models and has included the Accounting addition amounts and the tax deduction amounts in the TAXREC3 sheet of the SIMPIL model. The methodology and structure of the SIMPIL models pertaining to interest expense clawback is not based on the income tax treatment of Deferred Debt Issue Costs. The interest expense is the financial statement amount as per the SIMPIL model instructions. The methodology established within the SIMPIL model for interest expense true-up is independent of the other areas of PILs true-up. HOBNI submits that it has complied with the Deferred Debt Issue Costs correctly in the SIMPIL model and that no further revisions are required.

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<sup>7</sup> Decision & Order EB-2010-0132 page 55 paragraph 3.

### Conclusions - Account 1562 PILs Account

In HOBNI's 2011 Cost of Service rate application (EB-2010-0132), HOBNI submitted initial evidence for the disposition of account 1562. During the interrogatory phase of this application, HOBNI answered all interrogatories and resubmitted all PILs calculations, including SIMPIL models. During the technical conference, the two remaining areas on which Board staff questioned HOBNI pertained to the exclusion of regulatory assets/liability movements from PILs and to the interest clawback issue.

Board staff had no further objections to HOBNI's claim outside of the items on which the Board still had to decide in the Combined Proceeding. The Board made its decision on these two areas and ordered HOBNI to update its PILs calculations and resubmit its Excel spreadsheets. HOBNI complied with the Board's order, and the Board accepted HOBNI's submission with no revisions.

In HOBNI's case, PILS matters on which the Board decided on in the Combined Proceeding (with the exception of Combined Proceeding issues #8 and #9) were already reflected in HOBNI's final evidence for the 2011 COS application, and HOBNI's PILs submission was carefully reviewed by all participants in the two previous proceedings. HOBNI therefore submits that it would not be appropriate to use this third proceeding to revisit PILs again, particularly since decisions regarding PILs have already been rendered by the Board.

HOBNI has consistently responded to and complied with all Board's instructions, orders and directions associated with the disposition of account 1562. HOBNI has made final revisions to its PILs balance based on the Board's decisions on the remaining issues in the Combined Proceeding, as submitted with its Interrogatory responses to this proceeding. In the Board letter to VECC dated November 1, 2011<sup>8</sup> (in EB-2011-0174), the Board stated,

"With respect to the disposition of account 1562, the Board will not consider cost awards at this time as the application as filed appears to have no material inconsistencies with the various decisions made in the course of the Combined PILS proceeding (EB-2008-0381) including the use of the updated model used by Halton Hills Hydro Inc."

HOBNI submits that the preceding excerpt from the Board's letter provides additional support for HOBNI's submission that HOBNI has complied with all Board rulings, and there have been no material inconsistencies with the Board's previous decisions that would warrant dealing with PILs matters in a third proceeding.

HOBNI therefore respectfully requests that the Board approve the final disposition liability account balance of \$2,935,911, based on the information submitted in its 2012 IRM application.

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<sup>8</sup> [Board letter to VECC dated November 1<sup>st</sup>, 2011 EB-2011-0174](#)