

**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



**BY EMAIL**

December 19, 2011

Ontario Energy Board  
P.O. Box 2319  
27th Floor  
2300 Yonge Street  
Toronto ON M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

**Re: Bluewater Power Distribution Corporation  
2012 IRM3 Distribution Rate Application  
Board Staff Submission  
Board File No. EB-2011-0153**

In accordance with the Notice of Application and Written Hearing, please find attached the Board Staff Submission in the above proceeding. Please forward the following to Bluewater Power Distribution Corporation and to all other registered parties to this proceeding.

In addition please remind Bluewater Power Distribution Corporation that its Reply Submission is due by January 9, 2012.

Yours truly,

*Original Signed By*

Georgette Vlahos  
Analyst, Applications & Regulatory Audit

Encl.



# **ONTARIO ENERGY BOARD**

## **STAFF SUBMISSION**

2012 ELECTRICITY DISTRIBUTION RATES

Bluewater Power Distribution Corporation

EB-2011-0153

**December 19, 2011**

**Board Staff Submission  
Bluewater Power Distribution Corporation  
2012 IRM3 Rate Application  
EB-2011-0153**

## **Introduction**

Bluewater Power Distribution Corporation (“Bluewater”) filed an application (the “Application”) with the Ontario Energy Board (the “Board”) on October 3, 2011, under section 78 of the Ontario Energy Board Act, 1998, seeking approval for changes to the distribution rates that Bluewater charges for electricity distribution, to be effective May 1, 2012. The Application is based on the 2012 3<sup>rd</sup> Generation Incentive Regulation Mechanism.

The purpose of this document is to provide the Board with the submissions of Board staff based on its review of the evidence submitted by Bluewater.

In the interrogatory phase, Board staff identified certain discrepancies in the data entered in the application model by Bluewater. In response to Board staff interrogatories, which requested either a confirmation that these discrepancies were errors or an explanation supporting the validity of the original data filed with the application, Bluewater confirmed that they were errors and provided the corrected data. Board staff will make the necessary corrections to Bluewater’s model at the time of the Board’s Decision on the application.

Staff has no concerns with the data supporting the updated Retail Transmission Service Rates proposed by Bluewater. Pursuant to Guideline G-2008-0001, updated on July 8, 2010, Board staff notes that the Board will update the applicable data at the time of this Decision based on any available updated Uniform Transmission Rates.

As part of the Settlement Agreement for 2009 rates (EB-2008-0221), Bluewater agreed that in its 2010 Rate Application it will move the revenue to cost ratios for each of the lighting categories one-third of the way to 0.85; in its 2011 Rate Application it will move each of the lighting categories one-half of the way to 0.85; and in its 2012 Rate Application it will move each of the lighting categories to a revenue-to-cost ratio of 0.85. In each year, the excess revenue will be allocated to the class with the highest revenue-to-cost ratio until it is no longer the highest and then proportionately between the two or

more classes with the highest revenue-to-cost ratios so that their ratios remain equal with each other, and so on, from year to year<sup>1</sup>.

As directed in its Settlement Agreement for 2009 rates, Bluewater has adjusted the revenue-to-cost ratio for the Street Lighting and Sentinel Lighting rate classes to the target minimum range of 0.85. Board staff submits that the proposed revenue-to-cost ratio adjustments are in accordance with the Board approved Settlement Agreement in EB-2008-0221 and therefore Board staff has no issues with Bluewater's proposal.

Bluewater completed the Tax-Savings Workform with the correct rates and reflects the Revenue Requirement Work Form from the Board's cost of service decision in EB-2008-0221. Board staff has no concerns with the workform as filed.

During the interrogatory phase of this proceeding, Bluewater updated its balance in account 1521 to account for more recent actuals and revised its balance to a debit of \$2,709. Based on Bluewater's reconciliation, Board staff supports Bluewater's request to dispose of the updated balance in this account of a debit of \$2,709 (debit balances are recoverable from customers).

Board staff makes detailed submissions on the following matters:

- Review and Disposition of Deferral and Variance Accounts as per the *Electricity Distributors' Deferral and Variance Account Review Report* (the "EDDVAR Report");
- Lost Revenue Adjustment Mechanism Claim;
- Smart Meter Funding Adder ("SMFA"); and
- Payments in Lieu of Taxes – PILS 1562

## **REVIEW AND DISPOSITION OF DEFERRAL AND VARIANCE ACCOUNTS**

For the purpose of 2012 IRM applications, the EDDVAR Report requires a distributor to determine the value of its December 31, 2010 Group 1 Deferral and Variance account balances and determine whether the total balance exceeds the preset disposition threshold of \$0.001 per kWh using the 2010 annual kWh consumption reported to the Board. When the preset disposition threshold is exceeded, a distributor is required to file a proposal for the disposition of Group 1 account balances (including carrying

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<sup>1</sup> EB-2008-0221, Section 7.1, Pages 28-29

charges) and include the associated rate riders in its 2012 IRM Rate Generator for the disposition of the balances in these accounts. The onus is on the distributor to justify why any account balance should not be cleared if the threshold is exceeded.

## **Background**

Bluewater completed the Deferral and Variance Account continuity schedule included in the 2012 IRM Rate Generator Model at Tab 9 for its Group 1 Deferral and Variance Accounts. Bluewater's total Group 1 Deferral and Variance Account balances amount to a credit of \$2,112,461 which includes interest calculated to April 30, 2012. Based on the threshold test calculation, the Group 1 Deferral and Variance Account balances equate to \$0.00203 per kWh which exceeds the threshold, and as such, Bluewater requested disposition of these Accounts over a two year period to allow for smoothing of rates.

During the interrogatory phase of this proceeding, Board staff noted variances between RRR filings versus December 31, 2010 ending balances. Board staff asked Bluewater to reconcile the variances for each rate class (i.e. between Bluewater's RRR filings and the 2010 balances requested for disposition (principal + interest).

In its response, Bluewater stated that it had analyzed its Group 1 accounts and noted that "the carrying charges in these account at December 31, 2010 (RRR filing) were calculated using OEB prescribed interest rates. The OEB approved dispositions, however, include carrying charges calculated at forecast carrying charges set at the time of filing the application for disposition. Accordingly, the variance represents the difference between i) the actual amount of carrying charges based on prescribed rates recorded in previous years by Bluewater and ii) the OEB approved dispositions amounts which included forecast carrying charges at the time of the respective rate applications<sup>2</sup>".

Bluewater also noted that it intends to reallocate these historical variances to either account 4405 (Interest and Dividend Income) or 6035 (Other Interest Expense), as applicable, to reverse these carrying charge variances.

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<sup>2</sup> EB-2011-0153, Interrogatory Responses, Page 4

## **Submission**

Board staff has reviewed Bluewater's explanation for the variances between its RRR filings and 2010 Group 1 Deferral and Variance account balances and submits that it is reasonable. Also, the preset disposition threshold has been exceeded, therefore, Board staff has no issue with Bluewater's request to dispose of its 2010 Deferral and Variance Account balances at this time over the requested two year period to allow for the smoothing of rates.

With respect to the reallocation of the variances to either account 4405 or 6035, Board staff submits that this should not be done by Bluewater as these variances will be trued-up as part of Bluewater's future rate proceeding, when the residual balance in the recoveries account 1595 is disposed.

## **LOST REVENUE ADJUSTMENT MECHANISM ("LRAM") CLAIM**

### **Background**

The Board's *Guidelines for Electricity Distributor Conservation and Demand Management* (the "CDM Guidelines") issued on March 28, 2008 outline the information that is required when filing an application for LRAM or SSM recovery.

Bluewater originally sought to recover a total LRAM claim of \$303,393.37 over a one-year period. The lost revenues include the effect of new 2010 programs as well as persistence of 2006-2009 programs in 2010, and the persistence of 2006-2010 programs for 2011. Bluewater's original claim used 2009 program results as a best estimate for 2010 and 2011 program results. Bluewater subsequently updated its LRAM claim to \$308,567.16 based on the OPA's 2010 final program results.

The Board's *Guidelines for Electricity Distributor Conservation and Demand Management* (the "Guidelines") issued on March 28, 2008 outlines the information that is required when filing an application for LRAM. In its Decision on Horizon's application (EB-2009-0192) for LRAM recovery, the Board also noted that distributors should use the most current input assumptions available at the time of the third party review when calculating a LRAM amount.

## Submission

### *2006-2009 persisting programs*

Bluewater has requested the recovery of LRAM amount that includes the effect of new 2010 programs as well as persistence for 2006-2009 programs in 2010 and persistence of 2006-2010 programs in 2011.

Board staff notes that Bluewater's rates were last rebased in 2009. The intent of the LRAM in the electricity sector is to maintain revenue neutrality for CDM activities implemented by distributors during the IRM term since their rates do not reflect incremental CDM activities beyond the rebasing year. It is Board staff's view that the expectation in the electricity sector has been that LRAM claims pertaining to the test year (including true-ups to previous rebasing forecasts) would be unnecessary once a distributor rebases and accordingly updates its load forecast. This approach results in having final rates for all elements of the revenue requirement for the test year.

Board staff notes that the CDM Guidelines state the following with respect to LRAM claims:

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<sup>3</sup>.

In its 2009 cost of service application, Bluewater had the opportunity to reflect CDM savings on a forecast basis for all programs planned to be deployed up to and including the test year.

Board staff is of the view that Bluewater should have adjusted its forecast for CDM initiatives during its last rebasing period with the proper supporting documentation. Board staff submits that Bluewater could have done this by the use of reasonable proxies for CDM effects for new programs deployed in the years leading up to and including the test year.

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<sup>3</sup> Section 5.2: Calculation of LRAM, Guidelines for Electricity Distributor Conservation and Demand Management (EB-2008-0037)

The CDM guidelines suggest that once a new load forecast is approved, it is to be considered final in all respects. The same would hold true in Board staff's view if a CDM adjustment was included in the forecast but was not achieved.

While a true up of all unforecasted CDM activities would be consistent with the revenue neutrality principle of the LRAM concept, it is Board staff's view that the overriding regulatory principle at play here is rate certainty. Final rates means no retroactive adjustments related to the period in which rates were declared final. This is a key regulatory principle which the Board has, with very few exceptions, always upheld. To the extent that actual savings were not reflected in the final approved forecast should be, in Board staff's view, absorbed by the applicant.

Board staff recognizes that in the past LRAM applications may have been approved for persistence of programs after a new load forecast has been approved in a cost of service application, and the Board may want to consider the issue of consistency in its decision. In cases in which it was clear in the application or settlement agreement that an adjustment for CDM was not being incorporated into the load forecast specifically because of an expectation that an LRAM application would address the issue, and if this approach was accepted by the Board, then Board staff would agree that an LRAM application is appropriate. Bluewater may want to highlight in its reply whether the issue of an LRAM application was addressed in their cost of service application.

In the absence of the above information, Board staff does not support the recovery of the requested persisting lost revenues from 2006-2009 CDM programs in 2010 or 2011 as these amounts should have been built into Bluewater's last approved load forecast, nullifying the need for LRAM.

#### *2010 programs*

Bluewater has also requested the recovery of new savings arising from CDM programs delivered in 2010 and persisting savings from these programs through 2011. Bluewater was under IRM in 2010 and therefore, Board staff submits they could not have been reasonably expected to have accounted for these new program savings at the time it rebased and had a new load forecast approved by the Board. Board staff supports the recovery of the lost revenues related to the new savings arising from 2010 programs. Board staff notes that the Board has requested distributors to file for recovery of any



and all LRAM amounts related to 2005-2010 CDM programs in their 2012 rate applications. Therefore, Board staff suggests that Bluewater provide an updated LRAM amount for only 2010 program savings that took place in 2010, allocated by rate class, in its reply submission.

## **SMART METER FUNDING ADDER (“SMFA”)**

### **Background**

In its application, Bluewater has requested a continuation of its existing Smart Meter Funding Adder of \$2.00/month per metered customer. The utility states that it has completed smart meter deployment in 2011 but has experienced delays in the implementation of TOU pricing. The utility noted that it has made application requesting extension to the deadline for its Mandated TOU billing date [EB-2011-0224].

Board staff observes that the Board, under delegated authority, rendered its decision on Bluewater's request for extension. The Board granted Bluewater's extension in part, and approved the extension of the date for mandated TOU billing from October 2011 to January 31, 2012.

Bluewater states that it has completed smart meter deployment as of August 2011. The utility documents that it had incurred \$3.1 million in smart meter costs prior to 2011, which costs are audited at this time. It further stated that it had already incurred \$1.6 million of costs in 2011 (to August 2011), and expected to incur a further \$3.1 million in the latter part of 2011 and the first 2 quarters of 2012.

Bluewater submits that it will not be in a position to complete its expenditures until sometime in 2012, and that there is not reasonable expectation that a decision on its stand-alone smart meter application would be rendered prior to November 1, 2012. The utility states that removing the SMFA as of May 1, 2012, without replacing it until sometime later, would create rate volatility and customer confusion.

In the smart meter model filed with its application, Bluewater provided further information on the costs. It also provided further information in response to interrogatories from Board staff.

## Submission

Board staff has some concerns with Bluewater's costs. Bluewater has actual and estimated capital costs of about \$10 million actual and estimated operating costs of about \$490,000. Divided by Bluewater's 36,000 metered customers, this works out to a per meter cost of about \$292.90. This is significantly higher than what has been observed for many other utilities serving urban areas, and is high considering that smart meters are only for the Residential and GS < 50 kW customer classes. Board staff therefore expresses some concern in allowing continuation of the SMFA as even partial recovery of these costs which appear abnormally high and have not been reviewed.

Board staff observes that, of about \$10 million in capital costs, Bluewater documents about \$6.88 million for smart meters and other "minimum functionality" assets (e.g. AMI infrastructure), while about \$3.172 million is for "beyond minimum functionality" costs for TOU price implementation, web presentation, etc. While the Board is generally considering such costs in applications to dispose of smart meter implementation costs, these costs are documented in legislation and in Board documents as being "beyond minimum functionality".<sup>4</sup> Such "beyond minimum functionality" costs are expected to be documented and reviewed separately, and Board staff submits that the high costs documented by Bluewater increase the need for review of these costs at the earliest opportunity.

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<sup>4</sup> O. Reg. 425/06 and the *Functional Specification for an Advanced Metering Infrastructure (Version 2)*, issued July 5, 2007 exclude TOU implementation and other back office billing and CIS costs as outside of the regulation. The Board's Decision with Reasons EB-2007-0063, issued August 8, 2007 stated:

As indicated, this proceeding relates only to the recovery of smart meter costs associated with minimum functionality. Costs in addition to minimum functionality can be recovered as part of distribution rates in an individual utility's next rate case. Those costs may include web presentment, the Customer Information System integration with the Meter Data Management/Meter Data Repository, consumer education, reengineering business practices and integration with retailers. A diagram which was provided in evidence in this proceeding that describes the Ontario Smart Metering System is set out in Appendix "D" to this Decision. The Board heard from several parties that the area within the box titled "Advanced Metering Infrastructure (AMI)" defines minimum functionality. The Board agrees.<sup>4</sup>

This definition of "minimum functionality" was also repeated in the Board's *Guideline G-2008-0002: Smart Meter Funding and Cost Recovery*, issued October 22, 2008<sup>4</sup> (and also in *Guideline G-2011-0001: Smart Meter Funding and Cost Recovery – Final Disposition*, recently issued on December 15, 2011)<sup>4</sup>.

Furthermore, Board staff notes that meter deployment is substantially complete in 2011 and that the rate adder was not intended to be fully compensatory. The SMFA was not intended to fund spending beyond minimum functionality.

Board staff submits that the Board could consider continuance of the SMFA with a specific sunset date. Board staff is of the view that establishing a sunset date of October 31, 2012 would be preferable and suitable. By this time, Bluewater should have completed its smart meter program, including TOU implementation. 2011 costs would also be audited, so that total smart meter costs should satisfy the threshold that at least 90% of such costs are audited actuals. Further, this will allow sufficient time for the utility to prepare and file an application in accordance with the recently issued guideline and model and for the Board to process such application. The November 1, 2012 date has the benefit of coinciding with the semi-annual RPP price and threshold change. Effecting the smart meter change to coincide with the regular RPP change should be practical from the utility's perspective. Board staff notes that such an application should be filed by no later than May 31, 2012 to allow sufficient time for the application to be processed in time for a November 1, 2012 implementation.

## **PAYMENTS IN LIEU OF TAXES – PILS 1562**

### **Background**

In 2001, the Board approved a regulatory PILs tax proxy approach 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.

On December 18, 2009 the Board issued a decision in the Combined PILs Proceeding (EB-2008-0381) and provided its views on how it will review the evidence related to account 1562 deferred PILs.

In that Decision, the Board states that:

"The parties may well differ in their interpretations of the methodology but the Board will decide those questions on the basis of the facts and the underlying documents.

The Board will not enter into an enquiry as to what the methodology should have been but rather, will determine, where necessary, what the methodology was and what the appropriate application of the methodology should have been”.<sup>5</sup>

The PILs evidence filed by Bluewater in this proceeding includes tax returns, financial statements, Excel models from prior applications, calculations of amounts recovered from customers, SIMPIL<sup>6</sup> Excel worksheets and continuity schedules that show the principal and interest amounts in the PILs 1562 account balance. Bluewater applied to dispose a credit balance of \$638,656 which included a principal balance of a credit of \$555,943 and carrying charges up to April 30, 2012 of \$82,713.

#### CDM Incremental OM&A Expenses

In its 2005 application, Bluewater provided evidence that indicated it would incur capital costs of \$530,000 and deductible expenses of \$127,600 related to CDM projects. The 2005 PILs proxy model included a deduction for CDM expenses forecast for the 2005 test year of \$127,600.

Applicants were required to record a corresponding tax or accounting amount on the same row in the SIMPIL model to determine the appropriate true-up. In the revised Halton Hills model submitted in the Combined Proceeding, the “*CDM 2005 Incremental OM&A expenses per 2005 PILs model*” amount was entered on a line that did not true-up to ratepayers and did not need an offsetting actual amount.

Bluewater's 2005 revised SIMPIL model TAXCALC sheet row 44 cell C44 “*CDM 2005 Incremental OM&A expenses per 2005 PILs model*” of \$127,600 trues up to ratepayers on rows 99 to 132. Bluewater provided the dollar amount of the actual costs incurred in 2005 of \$104,549. This amount was not recorded on TAXCALC; therefore, there is no symmetrical true-up.

In its response to an interrogatory Bluewater stated<sup>7</sup>:

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<sup>5</sup>EB-2008-0381 Combined Proceeding, Account 1562 Deferred Payments in Lieu of Taxes (PILs), Decision with Reasons, December 18, 2009, pg. 7.

<sup>6</sup>Spreadsheet implementation model for payments-in-lieu of taxes

<sup>7</sup> Responses to Board Staff Interrogatories/December 5, 2011/pg19

“Cell G44 is NIL because there were no CDM costs deducted for tax purposes in 2005. For accounting purposes, the CDM costs incurred were \$104,549 which costs were recorded in subaccounts of Account 1565 and presented in the balance sheet as part of total regulatory assets.”

In the 2005 financial statements submitted in evidence, Bluewater disclosed \$3,444,784 net income after tax. In note 3 of the 2005 financial statements under recoverable regulatory assets, Bluewater stated that the company had spent \$362,532 on CDM activities.

### **Submission**

Board staff requests that Bluewater clarifies whether the company incurred and disclosed expenses related to CDM activities in its 2005 financial statements as a component of net income; and, that Bluewater provides an explanation for the difference in the amounts disclosed in the interrogatory response of \$104,549 for CDM costs incurred and in the financial statements of \$362,532.

Board staff submits that if Bluewater incurred CDM expenses in its 2005 net income, the asymmetrical true-up approach adopted by Bluewater for 2005 CDM expenses is inappropriate and that Bluewater should select one of the following two options and file a revised 2005 SIMPIL model, PILs continuity schedule and EDDVAR continuity schedule:

- 1) Record the 2005 actual CDM expense of \$104,549 (or \$362,532) in 2005 SIMPIL model TAXCALC sheet row 44 cell G44 on the same row as the CDM proxy amount; or,
- 2) Move the CDM proxy amount of \$127,600 to a line that does not true-up (1 row below in cell C45).

Further, Board staff submits that if Bluewater has deferred all CDM capital and operating expenses amounting to \$362,532 as at December 31, 2005 in account 1565 as stated above, that Bluewater should explain whether those CDM amounts have been disclosed on 2005 SIMPIL sheet TAXREC3 as part of the changes in regulatory assets, and if so, where specifically they were disclosed.

Other than the possible adjustment for CDM expenses as discussed above, and any

resulting changes to interest carrying charges, Board staff submits that Bluewater has followed the regulatory guidance and the Board's decisions in determining the amounts recorded in Account 1562.

All of which is respectfully submitted