

January 9, 2011

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

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

**Re: North Bay Hydro Distribution Ltd.  
2012 IRM3 Distribution Rate Application  
Board Staff Submission  
Board File No. EB-2011-0187**

In accordance with the Notice of Application and Written Hearing, please find attached two copies of my submission in the above proceeding.

I have also submitted electronic copies of these submissions; please forward to North Bay Hydro Distribution Ltd. and to all other registered parties to this proceeding.

Yours truly,

D. D. Rennick

## **D. D. Rennick Submission**

### **2012 ELECTRICITY DISTRIBUTION RATES**

### **NORTH BAY HYDRO DISTRIBUTION LTD.**

**EB-2011-0187**

**January 9, 2011**

#### **Introduction**

North Bay Hydro Distribution Ltd. (NBHDL) filed an application with the Ontario Energy Board (OEB), received on October 14, 2011, under section 78 of the *Ontario Energy Board Act, 1998*, seeking approval for changes to the distribution rates that North Bay charges for electricity distribution, to be effective May 1, 2012.

The application was based on the 3<sup>rd</sup> Generation Incentive Regulation Mechanism.

The purpose of this document is to provide the OEB with the submissions of D. D. Rennick based on his review of the evidence submitted by North Bay.

Submissions are made on the following topics:

1. Deferral and Variance Account Disposition
2. Shared Tax Savings
3. LRAM/SSM Carrying charges

## **1. Deferral and Variance Account Disposition**

### **NBHDL evidence:**

NBHDL proposes to collect from ratepayers \$1,776,381 including \$523,419 in carrying charges for PIL's variances recorded for the years October 1, 2001 – April 30, 2006. NBHDL indicated in its response to my interrogatory that the amount(s) do not reference actual taxes paid but differences between PIL's entitlement approved in the rates and PIL's collected from customers. NBHDL also indicated that this calculation was done in accordance with instructions in the Accounting Procedures Handbook.

### **Submission:**

1. In spite of the numerous submissions, discussion papers (EB-2007-08202), settlement agreements (September 30, 2010), proceedings (EB-2008-0381), FAQ's (December 2001; April 2003 ) or accounting procedures described in the Accounting Procedures Handbook set out clearly the theory behind recording PIL's variances. There appears to be no compelling reason to treat PIL's outlays any differently than other expenditures. If PIL's are to be treated differently, the calculation should be between the PIL's actually paid and that collected. In my opinion, the OEB has gone down the wrong path in its treatment of PIL's and in doing so has imposed an artificial and unnecessary burden on ratepayers.

2. Estimated PIL's figures are calculated as required by the Electricity Act, 1998 by applying Federal and Provincial tax rates to estimated LDC net income and the OEB has the authority to approve the estimated PIL's amount in rates but, I submit, does not have the authority to approve or reject the amount in absolute terms. For this reason the PIL's amount included in rates is not an "approved" amount in the same manner as other revenues and expenses. Estimating PIL's payable and including it in rates is solely to provide LDC's with the funds to pay and does not, in my opinion, give NBHDL authority to collect that amount regardless of the results of operations for the taxation

year. Therefore any subsequent recovery from ratepayers based on the estimated PIL'S amounts should not be considered in any calculation regarding variances.

3. In its letter to all electricity distribution companies dated August 24, 2001 the board quotes the Electricity Distribution Rates Handbook as indicating that "the incorporation of PIL's will be treated as a pass through". The treatment used by NBHDL in this application and condoned by the Board fails to do that since it does not compare the actual expense to the amounts collected. For example, in 2002 NBHDL had an accounting loss of approx \$3 million dollars. The taxable loss was \$1,222,657. In both cases no income tax was payable by NBHDL for that year. However, after using the SIMPIL worksheet for that year, NBHDL ratepayers are being asked to pay an additional \$713,534 in taxes. This is not a pass through of PIL's as imagined by the Board in 2001 and as such should not be allowed as a charge to ratepayers.

4. The practice of charging imputed interest on the variances calculated, while approved by the Board, goes against one of the first duties of the Board, as stated in the *Ontario Energy Board Act, 1998*, namely "*1. (1) The Board, in carrying out its responsibilities under this or any other Act in relation to electricity, shall be guided by the following objectives: 1. To protect the interests of consumers with respect to prices...*". To charge ratepayers \$523,419 in interest on funds that haven't been dispersed is adding an unnecessary burden. Attempts to treat NBHDL and other LDC's as real-world companies creates situations such as this one where, on one hand as customers, people are forced to pay higher rates while, on the other hand as shareholders, the same group of people do not receive the benefit of the increased revenues by having their rates lowered. Other than being incorporated, there is no similarity between a real-world company and NBHDL or other municipally owned LDC's.

5. NBDHL has collected approx. \$3.6 million from ratepayers in PIL's during the period 2002 – 2006. During the same period NBHL paid out a total of approximately \$1.8 million in PIL's to the Province of Ontario/Hydro Financial. In other words,

ratepayers have contributed approx. \$1.8 million more than NBHDL paid out. To allow NBHDL to collect a further additional \$1.2 million in PIL's relating to this period plus an additional \$523 thousand in carrying charges on funds that were never disbursed penalizes ratepayers through increased rates and should be disallowed.

## **2. Shared Tax Savings**

### **NBHDL evidence:**

NBHDL intends to record in variance account 1595 a Z-Factor tax charge of \$15,638 for the increase in income taxes between 2010 and 2012. NBHDL has indicated in its response to my interrogatory that it based this calculation on information received from the Board prior to submitting its application.

### **Submission:**

The following worksheet indicates my calculation of the tax savings which shows the amount as a \$56,285 refund which should be recorded in variance account 1595. This amount is calculated using the same principles as were applied during the 2010 IRM application which resulted in a tax savings due to ratepayers of \$16,285. There has been some discussion of factoring in the gross up formula in this calculation. In my opinion, this is not required since the tax amounts being compared have been calculated on income amounts that have been grossed up before applying the respective tax rates.

**1. Tax Related Amounts Forecast from Capital Tax Rate Changes**

	2010	2012
Taxable Capital	\$ 44,105,306	\$ 44,105,306
Deduction from taxable capital up to \$15,000,000	\$ 15,000,000	\$ 15,000,000
Net Taxable Capital	\$ 29,105,306	\$ 29,105,306
Rate	0.150%	0.000%
Ontario Capital Tax (Deductible, not grossed-up)	\$ 21,650	\$ -

**2. Tax Related Amounts Forecast from Income Tax Rate Changes**

	2010	2012
Regulatory Taxable Income	\$ 2,313,638	\$ 2,313,638
Corporate Tax Rate	28.72%	24.79%
Tax Impact	\$ 664,477	\$ 573,557
<b>Grossed-up Tax Amount</b>	<b>\$ 664,477</b>	<b>\$ 573,557</b>
Tax Related Amounts Forecast from Capital Tax Rate Changes	\$ 21,650	\$ -
Tax Related Amounts Forecast from Income Tax Rate Changes	\$ 664,477	\$ 573,557
Total Tax Related Amounts	\$ 686,126	\$ 573,557
Incremental Tax Savings		-\$ 112,570
Sharing of Tax Savings (50%)		-\$ 56,285

**3. LRAM/SSM Carrying charges****NBHDL evidence:**

NBHDL intends to add a two year volumetric rate rider to collect estimated revenue reductions of \$187,545 plus imputed interest of \$4,433 following customer based actions to reduce power consumption.

**Submission:**

1. In my opinion, the OEB decision(s) to compensate LDC's to recover lost revenue resulting from program reductions in power use by customers was based on faulty reasoning. Given the authority over LDC'S that the OEB possesses, the premise that LDC's would arbitrarily choose to ignore an OEB ruling which instructed them to

offer energy saving programs which would reduce power consumption is questionable. This incentive to NBHDL and other LDC'S penalizes customers for efforts to reduce consumption by increasing rates to offset savings realized by the customers. This practice is contrary to one of the first duties of the Board, as stated in the *Ontario Energy Board Act, 1998*, namely *"3. To promote electricity conservation and demand management in a manner consistent with the policies of the Government of Ontario, including having regard to the consumer's economic circumstances."*

2. The allowance for imputed interest in the claim is, as stated above, an unnecessary burden on ratepayers and against one of the Board's stated policies.

#### **General Submission:**

Without these continuing hearings and settlement discussions, no one but the Board and the applicants would have any idea what charges electricity bills contain. To that extent they are a positive thing. However, the present process still eliminates 99.9% of the customer base and for all intents and purposes the public is still not being represented at these hearings. In my view, a majority of decisions with few exceptions tend to come down on the side of distributors. I would ask that the Board, in making a decision in this matter, to picture itself in a room in front of a group of NBHDL ratepayers trying to explain the concept of these increases which consist largely of charges for non-payments, compensation for consumer initiated savings and interest charges on those non-payments.

All of which is respectfully submitted.