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Monday, January 23, 2012

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

Attention: Kristen Walli, Board Secretary

Dear Ms. Walli:

Re: North Bay Hydro Distribution Ltd. (EB-2011-0187)
Application for 2012 Electricity Distribution Rates
Reply Submission to Board Staff, VECC and D.D. Rennick Submissions

Please find attached a copy of North Bay Hydro Distribution Ltd.'s response to Board Staff, VECC and Donald D. Rennick's submissions of comments with regards to the 2012 IRM application.

Two hard copies of this submission will be sent via courier. An electronic copy of the response in PDF format will be submitted through the Ontario Energy Board's RESS.

An electronic copy of the response in PDF format will be forwarded via email to the Intervenors as follows:

Donald Rennick
a) Donald Rennick, Independent Participant

Vulnerable Energy Consumers Coalition
a) Michael Buonaguro, Public Interest Advocacy Centre
b) Shelley Grice, Econalysis Consulting Services Inc.

Yours truly,

Original signed by

Todd Wilcox,
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RESPONSE TO BOARD STAFF, VECC AND D.D. RENNICK SUBMISSIONS
NORTH BAY HYDRO DISTRIBUTION LTD.
EB-2011-0187

North Bay Hydro Distribution Ltd. ("NBHDL") filed an application (the "Application") with the Ontario Energy Board (the "Board"), 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 is based on the 2011 3rd Generation Incentive Regulation Mechanism ("IRM").

Based on a review of the evidence submitted by NBHDL, the Board, VECC and Mr. Donald Rennick filed their submissions on January 9, 2012 on the following matters:

- Adjustments to the Revenue-to-Cost Ratios;
- Disposition of Group 1 Deferral and Variance Account Balances;
- Account 1562 – PILs Disposition;
- Account 1521 – Special Purpose Charge ("SPC");
- Shared Tax Savings; and
- Lost Revenue Adjustment Mechanism ("LRAM").

This document reviews the submissions of Board staff, VECC and Mr. Rennick and provides the reply submission of NBHDL on the matters stated above.

BOARD STAFF SUBMISSION REPLY:

Adjustments to the Revenue-to-Cost Ratios

Board staff submits that the proposed revenue-to-cost ratio adjustments are in accordance with the Board's Decision in the EB-2009-0270 proceeding.

NBHDL Reply Submission

NBHDL has no further comments on this issue.

Disposition of Group 1 Deferral and Variance Account Balances

Board staff has reviewed North Bay's Group 1 Deferral and Variance account balances and notes that the principal amounts to be disposed of as of December 31, 2010 reconcile with the amounts reported as part of the RRR. Board staff therefore submits that the amounts should be disposed of on a final basis. Board staff notes that North Bay's application is not consistent with the guidelines outlined in the EDDVAR Report with respect to the default disposition period for Group 1 accounts (i.e. one year). Staff notes that the total bill impact using a one year disposition period is an increase of 2.32% while the total bill impact for two years (as proposed) is an increase of 0.47%. These bill impacts include North Bay's Group1 account balances and accounts 1521 and 1562. While recognizing the value of the EDDVAR Report in guiding decisions with respect to the disposition of deferral and variance account balances, Board staff notes that in the past, the Board has made decisions which deviate from the EDDVAR Report if it deems it in the public interest to do so. In this application, Board staff believes that using a disposition period of 2 years would strike an appropriate balance between reducing intergenerational inequity and mitigating rate volatility. Therefore, Board staff supports North Bay's proposed disposition period of two years.

NBHDL Reply Submission

NBHDL has no further comments on this issue.

Account 1562 – PILs Disposition

2001 Fourth Quarter and 2002 PILS Entitlement

The applicants in the Combined Proceeding had an effective date of rate change including the 2001 and 2002 PILs proxies on March 1, 2002. North Bay requested, and was granted, an effective date of rate change of May 1, 2002 so that, for the 2002 rate year, North Bay was only eligible to recover PILs in rates from May 1, 2002. Board staff submits that since North Bay requested, and the Board granted an effective date of rate change of May 1, 2002, North Bay should not record the 2001 fourth quarter and 2002 PILs proxies or entitlements for the period prior to the effective date of May 1, 2002. Board staff submits that North Bay should file the revised PILs reconciliation worksheet, continuity schedule and EDDVAR continuity schedule. Board staff submits that the proxy recognition in the continuity schedule should be based on the number of months between May 1, 2002 and the next rate change approved by the Board which will result in a lower proxy that reflects the number of months of collection from ratepayers.

NBHDL Reply Submission

NBHDL is unclear on what the Board Staff Submission is actually recommending. It appears that Board Staff is recommending both a reduction in PILs entitlement, from the amount approved in rates, and a change in the timing relating to the entitlement to recover PILs. NBHDL submits that the Board Staff position is not just, not reasonable and is punitive to NBHDL based on the following:

1) *Effective Date of Entitlement*

   The OEB has set precedent, through the combined proceeding EB-2008-0381, that the entitlement commences with the start of taxation (October 1, 2001) as opposed to the effective date of distribution rates including PILs. NBHDL believes that this precedent should apply equally to all LDCs (including NBHDL). The three combined proceeding applicants (EnWin, Halton Hills and Barrie) started recording entitlements on October 1, 2001 (for 2001 PILS) and January 1, 2002 (for 2002 PILS). NBHDL could not locate the 2002 rate decisions approving PILs in rates, but suspects that rates were effective March 1, 2002 not October 1, 2001 or January 1, 2002. This establishes the principle that entitlement commences with taxation and not with rate approval.

It is NBHDL's understanding that the OEB is continuing this principle and is approving entitlements commencing with taxation, not effective date of rate approvals, for PILs applications subsequent to the combined proceeding.

2) *Lower Level of PILS Approved in North Bay Hydro Rates Compared to Regulatory Entitlement*

NBHDL reduced the 2002 PILs recovery in rates from rate payers by 62% (reduction of $780,095) as an effort to mitigate customer impacts. The 2002 PILs approved in rates ($478,122) was 38% of the value calculated using the PILs determination model ($1,258,217). The Board Staff position would further reduce NBHDL's 2002 PILs revenue below the level approved in rates, which has already been lowered to the benefit of ratepayers. NBHDL is of the opinion that it has been more than fair to its rate payers and does not agree that PILs revenue should be further reduced.

The Board Staff submission to alter the entitlement horizon and/or amount for 2001 PILS would further penalize NBHDL through reduced PILs entitlement recovery.

3) *Delay in Approval of Distribution Rates*

NBHDL believes that the Board Staff position disadvantages NBHDL relative to the parameters of approval for other LDCs. As an example, LDCs with rates approved March 1, 2002 are allowed entitlement commencing October 1, 2001. It is unfair to effect a 7 month delay in entitlement (October 2001 to May 2002) for a 2 month (March 2002 to May 2002) delay in rate approval.

4) *North Bay Expectations at Time of Rate Approval (May 1, 2002)*

Excerpt from Board Staff Submission

Ref: Page 2 of the Amended Manager's Summary for North Bay's 2002 Rate Application

> "The increase of distribution revenue as a result of this rate submission is $1,247,835. This excludes about $690,000 in account 1570 for transition costs

> and a reduction of $740,854 in 2002 proxy taxes. We plan to recover the associated loss of revenue through efficiency improvements for both these amounts. If need be we will submit for Transition costs and proxy taxes during the next annual filing."

This statement assumed NBHDL would receive full recovery of the approved PILs included in rates. The reference to efficiency gains were to off-set the reduction in full entitlement revenue (2002 PILS reduction and transitions costs). NBHDL did not contemplate having to off-set a further reduction in Distribution Revenue relating to PILs revenue approved in rates, which Board Staff are indicating.

5) *Regulatory Principles of PILs*

The 1562 Deferred PILs account was created to keep LDCs "whole", as defined by the rules set out in the combined proceeding. The combined proceeding has confirmed that approved PILs in rates is to be used as the entitlement side of the variance account, the PILs recovered from customers to be the recovery side of the variance account and SIMPILS models to make appropriate adjustments between customers and the LDC. To be consistent with these principles, NBHDL should be entitled to the full amount of PILs previously approved in rates.

To approve a 1562 Deferred PILs balance on any other basis would effectively be retroactive rate making (the Board Staff submission would effectively reduce the amount of PILs included in rates that the Board has already approved).

For the reasons outlined above, NBHDL believes that the continuity schedule as originally filed is just and reasonable and follows the rules as outlined in the combined proceeding. This results in full recovery of PILs approved in rates and an entitlement commencing with taxation not the effective date of rate approvals.

Write-down of Capital Property and Loss of Disposal of Assets

Under the PILs methodology, Board staff submits that fixed asset transactions should not true-up to ratepayers and thus appear on the TAXREC3 sheet of the SIMPIL model. Utilities receive a return on fixed assets included in rate base and, if an asset is written down or disposed, the utility continues to receive a return until its next rate rebasing application. Board staff submits that the write-down of capital property of $540,755 in 2002 and the loss on disposal of assets of $144,597 in 2004 should not true-up to ratepayers. Board staff submits that North Bay should move the transactions to TAXREC3 in the 2002 and 2004 SIMPIL models respectively and that North Bay should re-file the corrected 2002 and 2004 SIMPIL models, PILs continuity schedule and EDDVAR continuity schedule.

NBHDL Reply Submission

NBHDL respectfully disagrees with the Board Staff position above and refers the Board panel to the full body of evidence submitted in response to Board Staff Interrogatories (IR# 7 & 8). NBHDL believes that these two adjustments to taxable income should be part of the SIMPILS methodology process that trues-up to rate payers.

NBHDL has reviewed the SIMPILS models approved as part of the combined proceeding and does not believe a precedent has been established by the OEB regarding the true-up of gains/losses/write-downs on disposal of assets. The combined proceeding applicants had differing treatments of both gains and losses on disposal of assets, contained in the final version of the SIMPILS models. Some of the combined proceeding applicants categorized these items on TaxRec3, resulting in no true-up, while other applicants categorized these items on TaxRec2, but in all instances the amounts were less than materiality, again resulting in no true-ups. Regardless of the categorization (TaxRec2 or TaxRec3) these adjustments would not have been trued-up due to the fact that they are all less than materiality.

NBHDL believes that the write-down and loss on disposal should be trued-up to ratepayers based on the arguments recited below and the fact that these amounts meet the materiality test as part of the SIMPILS true-up process. NBHDL has laid out all pertinent arguments for our proposed treatment in the Board Staff Interrogatory responses which are provided below for reference:

7. Reference: Appendices 13 and 15, 2002 and 2004 SIMPIL models Appendix 20, 2002 T2 Federal Tax Return and 2002 Audited Financial Statements, Write-down of Capital Property and Loss of Disposal of Assets

The 2002 T2 Schedule 1 shows an addition for a write-down of capital property of $540,755 that is not deductible for tax purposes.

a) What was the business reason for writing down this asset?

Response:

The asset (building) was written down to fair market value.

b) *Was the asset sold to a municipal owner, an affiliated company, or an associated company?*

Response:
The asset was sold in 2004 to a 3rd party.

c) *Did North Bay apply to the Board for the recovery of the write down?*

Response:
No, NBHDL is unaware of any application for recovery of the write down.

d) *This addition was added to the 2002 SIMPIL model TAXREC2 sheet row 34 cell C34. Material items recorded on TAXREC2 true-up to the ratepayers only. However, if the value of the asset was included in rate base in 2001, shareholders are getting a continued benefit in distribution rates. A write down of assets is accelerated depreciation and does not true up in the PILs methodology.*

Please explain why this asset write-down should true up to ratepayers and not to the shareholder.

Response:
The write-down relates to the movement to fair market value of an asset that was, at the time, used by NBHDL to provide distribution services to its customers. Costs related to provision of distribution services are allowed to be recovered in rates.

While NBHDL did not apply for specific recovery of the write-down it continued to receive payments from customers to partially mitigate the loss of economic value. NBHDL continued to receive, in the 2002 to 2006 period, depreciation and market based rate of return related to the write-down amount. This stopped in 2006 when LDCs were permitted to rebase for distribution rates May 1, 2006 based on based on December 31, 2004 values (which reflected the write-down).

In addition, NBHDL through its treatment of the write-down as a TAXREC2 item resulting in true up from its customers is filing for *recovery of the tax impact only related to the write-down. On a net basis the shareholder still absorbed a portion of the write-down.*

NBHDL considers this treatment fair as the asset was required for service and did not exist exclusively for the benefit of the shareholder.

e) If North Bay agrees it benefits shareholders only, please move the transactions to TAXREC3.

Response:
As stated in 7 d) above, NBHDL considers the treatment of this item in TAXREC2 as fair as the asset was required for service and did not exist exclusively for the benefit of the shareholder.

8. The 2004 T2 Schedule 1 shows an addition for a loss on disposal of assets of $144,597.

a) Is this the same asset that was written down in 2002?

Response:
Yes, this is the same asset that was written down in 2002.

b) This addition was added to the 2004 SIMPIL model TAXREC2 sheet row 19 cell C19. Material items recorded on TAXREC2 true-up to the ratepayers only.

Please explain why a loss on disposal of assets on which shareholders are getting a return in distribution rates and a CCA tax benefit should true-up to ratepayers and not to the shareholder.

Response:
NBHDL believes its treatment as a TAXREC2 item with true-up from its customers is fair for the same reasons articulated in response to question 7 d).

NBHDL sold the facility in 2004 as part of an effort to rationalize facilities and ultimately reduce costs for customers. NBHDL did not apply for *specific recovery of the loss on sale. Again, NBHDL continued to receive payments from customers to partially mitigate the loss on sale. NBHDL continued to receive, in the 2004 to 2006 period, depreciation and market based rate of return related to the loss on disposal amount. This stopped in 2006 when LDCs were permitted to rebase for distribution rates May 1, 2006 based on based on December 31, 2004 values (reflected the sale).*

NBHDL through its treatment of the loss on disposal as a TAXREC2 item resulting in true up from its customers is filing for recovery of the tax impact only related to the loss. On a net basis the shareholder still absorbed a portion of the loss on disposal (a larger portion than the write-down to FMV).

NBHDL considers this treatment to be fair as the loss on sale led to future reduced costs for customers and the asset did not exist exclusively for the benefit of the shareholder.

c) If North Bay agrees it benefits shareholders only, please move the transactions to TAXREC3.

Response:
As stated in 8 b) above, NBHDL considers the treatment of this item in TAXREC2 as fair as the loss on sale led to future reduced costs for customers and the asset did not exist exclusively for the benefit of the shareholder.

Account 1521 – Special Purpose Charge ("SPC")

Board staff submits that despite the usual practice, the Board should authorize the disposition of Account 1521 as of December 31, 2010, plus the amount recovered from customers in 2011, including carrying charges as of April 30, 2012, because the account balance does not require a prudence review, and electricity distributors are required by regulation to apply for disposition of this account by April 30, 2012 in any event. It is Board staff's view that that there is no need to await the outcome of final audited results when these results may be available after April 30, 2012. Consistent with the treatment of Group 1 account balances and account 1562, Board staff submits that a disposition period of two year should also be used.

NBHDL Reply Submission

NBHDL has no further comments on this issue.

Shared Tax Savings

Board staff notes that there are discrepancies between the regulatory taxable income used by North Bay in the 2012 Shared Tax Savings Workform and the regulatory taxable income included in the 2010 Revenue Requirement Work Form ($2,313,638 versus $1,649,160). This change would increase the amount to be returned to ratepayers from $15,638 to $102,200. Board staff invites North Bay to comment on this adjustment in its reply submission and indicate, given the magnitude of the refund, whether it still proposes to record this amount in account 1595 for future disposition.

NBHDL Reply Submission

Based on discussions with Board staff, it was NBHDL's understanding that the regulatory taxable income to be utilized in the 2012 Shared Tax Savings Workform should be the same figure used in the 2011 Shared Tax Savings Workform; the model would then calculate the appropriate tax sharing amount. There was discussion on the use of a regulatory taxable income that incorporated the gross up factor; however, NBHDL was advised that the model worked appropriately and followed Board policy. NBHDL acknowledges that there is a discrepancy between the regulatory taxable income used in the model and the 2010 Revenue Requirement Workform, however, this issue was thought to be fully resolved during the 2011 IRM process. In its 2010 COS application, NBHDL was approved for $686,307 for income and capital taxes[1]; this was based on an effective tax rate of 28.72%. By utilizing the regulatory taxable income of $2,313,638 and an effective tax rate of 28.72%, the model calculates the approved PILS amount. It is NBHDL's assumption that the 2012 IRM3 Shared Tax Savings Work form model should calculate an identical grossed up tax amount as was approved in the 2010 COS decision.

After reviewing Board Staff comments with regards to this model, NBHDL acknowledges the confusion surrounding this particular issue, especially with the unique revisions made to NBHDL's model in 2011 and the complexity of the PILs. Upon further review NBHDL feels that the model as currently calculating does not take into account that the regulatory taxable income used for the 2012 tax saving calculation already incorporates both the approved tax credits and the gross up factor. In the 2011 IRM decision, NBHDL and Board Staff agreed on the appropriateness of a revised Shared Tax Savings Workform to accommodate this calculation method and a tax savings of $16,285 was recorded in variance account 1595[2].

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[1] Page 5 of the Draft Rate Order and pages 29 and 54 of the Settlement Agreement – EB-2009-0270
[2] Page 4 of Board Staff Submission – EB-2010-0102 and Page 4 of Decision and Order

NBHDL has prepared a revised Shared Tax Savings calculation using the principals approved in the 2011 decision – please see Appendix "A". The variance between the 2011 IRM Shared Tax Savings estimate of 2012 tax savings and the proposed 2012 IRM Shared Tax Savings is reflective of the decrease in estimated 2012 tax rates. NBHDL respectfully submits that a consistent regulatory taxable income which would incorporate the effective tax rate and therefore eliminate the need to adjust income for both the tax credit and the gross up factor should be utilized in the 2012 Shared Tax Savings Workform. NBHDL submits that the method used to calculate the 2011 IRM shared tax savings should be applied in the 2012 IRM proceeding as it was deemed appropriate in the Board's Decision in EB-2010-0102. Utilizing the same method as approved in the 2011 IRM decision results in total tax amount would be $573,557. Incremental tax savings would be $112,570 and NBHDL submits that 50% of this amount, $56,285, should be recorded in Account 1595. This treatment would be consistent with the 2011 IRM decision and incorporates the impact of tax credits and the gross up factor into the regulatory taxable income which the shared tax savings amount is based on.

LRAM Claim

2010 programs and persisting impacts of 2008-2010 programs

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. North Bay 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 therefore does not support the recovery of the requested persisting lost revenues from 2008 and 2009 CDM programs in 2010, the lost revenues from 2010 CDM programs, or the lost revenues from 2008-2010 CDM programs persisting from January 1, 2011 to April 30, 2012 as these amounts should have been built into North Bay's last approved load forecast.

NBHDL Reply Submission

With a provincial directive to encourage conservation, NBHDL aggressively promoted OPA programs throughout its service territory without hesitation. NBHDL has been a leader in terms of penetrating conservation markets and targets and has voluntarily gone above and beyond in its interactions with customers and the programs it has instituted. NBHDL proactively and voluntarily included estimates of 2009 and 2010 CDM program savings into its 2010 load forecast and it is unreasonable that Board staff would suggest that the savings in excess of that forecast should not be included in its LRAM claim; NBHDL should not be penalized for following provincial directive by promoting conservation and attaining higher than expected results. LRAM is in place to remove the disincentive to deliver CDM programs which erode distribution revenue, to deny this true-up would send a message that LDCs not go above and beyond to achieve forecasted CDM savings targets. This message does not align with the intent of LRAM claims and this very issue is addressed in the recently released CDM guidelines[3]. NBHDL is unclear why the principals outlined in the new CDM guidelines would not be applied to NBHDL's application, especially in light of NBHDL's proactive stance towards conservation.

The Board staff's submission on NBHDL's LRAM claim offers its view that LRAM claims pertaining to a test year and beyond would be unnecessary once a distributor rebases and accordingly updates its load forecast. However, Board staff states in its submission that:

> "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. North Bay may want to highlight in its reply whether the issue of an LRAM application was addressed in their cost of service application."

An LRAM application for 2008 and 2009 programs beyond 2010 was addressed in NBHDL's 2010 COS application:[4]

> "The lost revenue associated with the OPA programs delivered and/or supported by NBHDL will not be recovered for 2008 and beyond in the 2010 application as the OPA program results are not finalized at this time. Once the final results are known NBHDL will file for recovery of LRAM in future applications."

As indicated by the Board staff quote, Board staff would support NBHDL's LRAM as claimed since NBHDL had reported in their 2010 COS application that its intent was to file LRAM for programs launched in 2008 and beyond at a later date. That NBHDL included estimates of 2009 and 2010 CDM program savings into its 2010 load forecast should be viewed proactively as this reduced the size of the associated LRAM claims for 2010 and beyond.

[3] See EB-2012-0003 – Guidelines for Electricity Distributor Conservation and Demand Management – page 10
[4] See EB-2009-0270 Exhibit 10 page 3

Board staff also quotes 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."

NBHDL understands that lost revenues associated with historic programs are to be incorporated into the load forecast and not to be claimed again. However, it is inappropriate that energy savings for programs that were not available at the time, did not enter the load forecast and thus did not impact these new rates should be denied an LRAM. This is particularly true since NBHDL expressly stated in its COS that an LRAM would be filed on these energy savings at a later date. The load forecast model used by NBHDL was accepted by the Board in NBHDL's 2010 Cost of Service (COS) proceeding, EB-2009-0270, and as explained in the reply submission to VECC, 2008 OPA programs savings had minimal if any impact on the 2010 predicted purchases used to determine 2010 distribution rates. NBHDL respectfully refers the Board to its submission reply below for VECC for further information on the CDM savings incorporated into its 2012 IRM claim and the justification for NBHDL's submission that the proposed LRAM claim of $97,210 is appropriate and reasonable. NBHDL submits that the LRAM claim put forward by NBHDL is accounting for the difference between the forecasted revenue loss embedded in rates and the actual revenue loss incurred by the utility and it is reasonable, just and appropriate.

2008 and 2009 programs

Board staff notes that North Bay has not collected 2008 lost revenues from OPA CDM programs and the lost revenues associated with both 2009 third tranche CDM programs and 2009 OPA CDM programs, years during which North Bay was under IRM. Board staff supports the approval of the 2008 and 2009 lost revenues requested by North Bay as these lost revenues took place during IRM years and North Bay did not have an opportunity to recover these amounts. Board staff notes that this is consistent with what the Board noted in its decisions on applications from Horizon (EB-2011-0172), Hydro One Brampton (EB-2011-0174), and Whitby Hydro (EB-2011-0206). Board staff requests that North Bay provide an updated LRAM amount that only includes lost revenues from 2008 and 2009 CDM programs in the years 2008 and 2009 and the subsequent rate riders.

NBHDL Reply Submission

Board staff had requested that NBHDL submit as part of its reply submission lost revenue amounts for 2008 and 2009 programs for 2008 and 2009 as NBHDL was under IRM during that time. NBHDL respectfully notes that it was also under IRM for the first four months of 2010.

Table 1 below provides the breakdown of the requested lost revenue from which the lost revenue during the IRM period can be obtained. Lost revenue during the IRM period was $53,135. However, NBHDL still requests that the Board approve the LRAM claim for $ $97,210 as supported by Board staff and all other evidence.

Table 1 - LRAM claim during and after the IRM period

	IRM	**IRM**	**IRM**	**2010 Load forecast**	**2010 Load forecast**	**2010 Load forecast**	Total
	2008	2009	Jan 1 to Apr 30 2010	May 1 to Dec 31 2010	2011	Jan 1 to Apr 30 2012	
Residential	$12,061	$18,861	$8,704	$8,933	$18,250	$8,302	$75,111
GS < 50 kW	$0	$0	$0	$0	$0	$0	$0
GS > 50 kW	$417	$7,411	$3,733	$463	$3,970	$3,532	$19,526
LRAM total	$12,478	$26,272	$12,437	$9,396	$22,220	$11,834	$94,637
Carrying charges	$773	$861	$315	$253	$313	$58	$2,572
Total claim	$13,250	$27,133	$12,752	$9,649	$22,533	$11,892	**$97,210**
Cumulative LRAM	$13,250	$40,383	$53,135	$62,784	$85,318	**$97,210**	

<u>VECC SUBMISSION REPLY:</u>

<u>Revenue-to-Cost Ratios</u>

VECC submits that the adjustments to revenue-to-cost ratios are in accordance with the Board's EB-2009-0270 decision and that the Revenue-Cost Ratio Adjustment Work Form has been completed appropriately.

<u>NBHDL Reply Submission</u>

NBHDL has no further comments on this issue.

<u>Lost Revenue Adjustment Mechanism (LRAM Recovery)</u>

<u>OPA Funded Programs</u>

VECC submits that NBHDL has appropriately demonstrated through interrogatory responses that the current LRAM claim accounts for any measures that have expired before the full span of the LRAM claim.

<u>NBHDL Reply Submission</u>

NBHDL has no further comments on this issue.

Load Forecast

VECC notes that Table 1 in IndEco's updated LRAM Report shows different values for reductions to the energy savings eligible for an LRAM claim compared to the values provided above in 3.14 as per the response to VECC interrogatory # 2 (b).

NBHDL Reply Submission

NBHDL has verified with IndEco Strategy Consulting Inc. that Table 1 in their 3rd party report should reflect the same values as those referenced in VECC # 2 (b). The values provided in the updated IndEco report were inadvertently from a draft version.

Load Forecast / 2008 Programs

NBHDL's load forecast incorporated 11 years (1998 to 2008) of historical data. VECC submits that the load forecast methodology utilized by NBHDL in its 2010 COS Application for rates effective May 1, 2010 used a regression analysis of historical data that included actual use and therefore included 2008 CDM program impacts. Any conservation effects up to the end of 2008 would be captured in the historical consumption data. Based on these considerations, VECC submits that lost revenues from NBHDL's 2008 CDM programs are eligible for recovery in 2008 and 2009 but are not accruable in 2010 and beyond as the energy savings are assumed to be incorporated in the 2010 load forecast.

NBHDL Reply Submission

The regression model used in NBHDL's load forecast included the years 1999 through 2008 to arrive at the formula for predicting purchases. The prediction formula utilizes 1999 data as much as it does 2008; for example, 1999 actual data influences the regression analysis and the resulting prediction formula in equal proportion to 2008. As a result, the reduction in CDM savings in 2008 has a minimal impact on the prediction formula used to forecast 2010 purchase values. Further to that point, 2008 actual data would not include the full impact of CDM programs implemented throughout that year. NBHDL would also point to EB-2009-0270, Table 3-8 of Exhibit 3 (page 17 of 29) which highlights the variance between predicted and actual purchases for 2008. This table shows that for 2008, the model is actually predicting 1.2 GWh higher than actual data which suggests that the prediction formula may not be taking the 2008 CDM results into consideration at all. Since the prediction formula is used to forecast 2010 values it is most likely not reflecting any or a very little amount of the 2008 CDM savings. With the exception of minor change in the modification of arithmetic mean from geometric mean, NBHDL's load forecast was accepted by the Board in its 2010 COS[5].

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[5] Page 6 of 8 in NBHDL's Draft Rate Order – EB-2009-0270

NBHDL respectfully submits that the 2008 energy savings that are assumed to be incorporated into the 2010 load forecast are immaterial and that it is appropriate for NBHDL to include these 2008 program savings into 2010 and beyond.

2009 and 2010 CDM Programs

VECC submits that the LRAM claim in this application should not include any lost revenue in 2010 from 2010 OPA CDM programs, persisting lost revenues from 2008 and 2009 CDM programs in 2010 and persisting lost revenues from 2008 to 2010 CDM programs over the period January 1, 2011 to April 30, 2012, as the rebasing year forecast is final and these savings should have been incorporated in the 2010 load forecast. VECC submits that lost revenues from 2009 CDM programs in 2009 are eligible for recovery as these savings occurred prior to rebasing. In summary, VECC submits that the LRAM claim should be revised to include only energy savings from 2008 and 2009 CDM programs in 2008 and 2009.

NBHDL Reply Submission

The objective of LRAM is to keep the LDC revenue neutral and to ensure that there is not a disincentive to the LDC in delivering energy savings to customers through CDM programs. NBHDL agrees that once savings are incorporated into the load forecast, there will not be lost revenues associated with those savings. However, the full extent of savings from 2008, 2009 and 2010 programs were not included into NBHDL's load forecast since final results were not available at the time. It is not reasonable to suggest that lost revenues from these programs should not be recoverable when final results from these programs were not available at the time of the load forecast and were not fully incorporated into the forecast as explained above. As submitted in the reply submission above for Board Staff, NBHDL addressed the issue of a future LRAM application for those CDM savings not included in its 2010 load forecast, specifically for 2008 and beyond, in its 2010 COS.[6]

In response to VECC interrogatories, NBHDL decreased its LRAM claim by $90,377 to avoid double counting the savings that had previously been included in the load forecast and that were included in the 2012 LRAM claim in error. NBHDL is entitled to an LRAM claim considered by VECC as a true-up related to the portion of energy savings related to 2009 and 2010 programs in the test year and beyond and it was NBHDL's understanding of the LRAM rules when incorporating a portion of 2009 and 2010 savings into its load forecast that an LRAM claim would be possible for any savings not included in the load forecast and not included in rate setting. While decisions from Hydro One Brampton and Hydro Ottawa quoted by VECC side on denying true-up LRAM claims for unforecasted savings, NBHDL remains firm that these decisions are

[6] See EB-2009-0270 Exhibit 10 page 3

decidedly unfair to LDCs since they deny them the ability to remain revenue neutral with respect to CDM, and prevent the LRAM mechanism from having its intended effect.

NBHDL respectfully submits that CDM savings were considered in the 2010 load forecast and that this has been appropriately reflected in the reduced LRAM claim of $97,210 for 2008, 2009 and 2010 OPA program savings.

D.D. RENNICK SUBMISSION REPLY:

NBHDL respectfully acknowledges Mr. Rennick's submission and has no further comments.

All of which is respectively submitted on this 23rd day of January, 2012.

APPENDIX "A"

PROPOSED 2012 SHARED TAX SAVINGS CALCULATION

Summary - Sharing of Tax Change Forecast Amounts

For the year, enter any Tax Credits from the Cost of Service Tax Calculation (Positive #)	$ -

1. Tax Related Amounts Forecast from Capital Tax Rate Changes	**2010**	**2012**	**2011 IRM Estimated 2012**	**Variance**
Taxable Capital	$ 44,105,306	$ 44,105,306	$ 44,105,306	
Deduction from taxable capital up to $15,000,000	$ 15,000,000	$ 15,000,000	$ 15,000,000	
Net Taxable Capital	$ 29,105,306	$ 29,105,306	$ 29,105,306	
Rate	0.150%	0.000%	0.000%	
Ontario Capital Tax (Deductible, not grossed-up)	**$ 21,650**	**$ -**	**$ -**	
2. Tax Related Amounts Forecast from Income Tax Rate Changes	**2010**	**2012**	**2012**	
Regulatory Taxable Income	$ 2,313,638	$ 2,313,638	$ 2,313,638	$ 2,313,638
Corporate Tax Rate	28.72%	24.79%	26.25%	1.46%
Tax Impact	$ 664,477	$ 573,557	$ 607,307	$ 33,750
Grossed-up Tax Amount	**$ 664,477**	**$ 573,557**	**$ 607,307**	**$ 33,750**
Tax Related Amounts Forecast from Capital Tax Rate Changes	$ 21,650	$ -	$ -	$ -
Tax Related Amounts Forecast from Income Tax Rate Changes	$ 664,477	$ 573,557	$ 607,307	$ 33,750
Total Tax Related Amounts	**$ 686,126**	**$ 573,557**	**$ 607,307**	**$ 33,750**
Incremental Tax Savings		**-$ 112,570**	**-$ 78,820**	**-$ 33,750**
Sharing of Tax Savings (50%)		**-$ 56,285**	**-$ 39,410**	**-$ 16,875**
				-$ 56,285