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**BY EMAIL**

January 26, 2012

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: Greater Sudbury Hydro Inc.  
2012 IRM3 Distribution Rate Application  
Board Staff Submission  
Board File No. EB-2011-0169**

In accordance with the Notice of Application and Hearing, please find attached the Board Staff Submission in the above proceeding. Please forward the following to Greater Sudbury Hydro Inc. and to all other registered parties to this proceeding.

In addition please remind Greater Subdury Hydro Inc. that its Reply Submission is due by February 6, 2012.

Yours truly,

*Original Signed By*

Stephen Vetsis  
Analyst, Applications & Regulatory Audit

Encl.



# **ONTARIO ENERGY BOARD**

## **STAFF SUBMISSION**

### **2012 ELECTRICITY DISTRIBUTION RATES**

Greater Sudbury Hydro Inc.

EB-2011-0169

**January 26, 2012**

**Board Staff Submission  
Greater Sudbury Hydro Inc.  
2012 IRM3 Rate Application  
EB-2011-0169**

**Introduction**

Greater Sudbury Hydro Inc (“GSH”) filed an application (the “Application”) with the Ontario Energy Board (the “Board”) on October 28, 2011, under section 78 of the *Ontario Energy Board Act, 1998*, seeking approval for changes to the distribution rates that GSH charges for electricity distribution, to be effective May 1, 2012. The Application is based on the 2011 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 GSH.

In the interrogatory phase, Board staff identified certain discrepancies in the data entered in the application models by GSH. 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, GSH confirmed certain errors as described below and provided the necessary corrections. Board staff will make the necessary corrections to GSH's models at the time of the Board's Decision on the Application.

GSH completed the Tax-Savings Workform with the correct rates which reflects the Revenue Requirement Work Form from the Board's cost of service decision in EB-2008-0230. Board staff has no concerns with the Tax-Savings Workform as filed.

Board staff has no concerns with the data supporting the RTSR Workform proposed by GSH. Pursuant to Guideline G-2008-0001, updated on June 22, 2011, 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.

GSH's 2010 actual year-end balance for Group 1 accounts with interest projected to April 30, 2012 is a debit of \$167,261. This includes a debit balance of \$1,346,020 in the global adjustment sub-account of account 1588. The total Group 1 Deferral and

Variance account amount results in a total claim of \$0.00017 per kWh, which does not exceed the preset disposition threshold. As a result, GSH proposed to not dispose of Group 1 account balances at this time. Board staff has reviewed GSH's Group 1 Deferral and Variance account balances and notes that the principal balances as of December 31, 2010 reconcile with the balances reported as part of the *Reporting and Record-keeping Requirements*. Since the preset disposition threshold has not been exceeded Board staff has no issue with GSH's proposal.

Board staff makes detailed submissions on the following matters:

- Disposition of Account 1521 – SPC Variance;
- Smart Grid Funding Adder Request;
- Lost Revenue Adjustment Mechanism (“LRAM”) Claim; and
- Account 1562 – Deferred Payments in Lieu of Taxes (“PILs”)

### **Disposition of Account 1521 – SPC Variance**

#### **Background**

GSH originally requested the disposition of a debit balance of \$9,863 in account 1521 with carrying charges calculated to April 30, 2012. In response to Board staff interrogatory # 3, GSH completed the table below. As the balances in the Group 1 Deferral and Variance accounts failed the threshold test, GSH proposed to only recover the balances of accounts 1562 and 1521 (a combined credit amount of \$35,516) using a variable rate rider with a one year recovery period.

SPC Assessment (Principal balance)	Amount recovered from customers in 2010	Carrying Charges for 2010	December 31, 2010 Year End Principal Balance	December 31, 2010 Year End Carrying Charges Balance	Amount recovered from customers in 2011	Carrying Charges for 2011	Forecasted December 31, 2011 Year End Principal Balance	Forecasted December 31, 2011 Carrying Charges Balance	Carrying Charges for 2012 (Jan.1 to Apr.30)	Total for Disposition (Principal & Interest)
\$378,888.00	\$148,141.38	\$1,717.78	\$230,746.62	\$1,717.78	\$222,758.62	\$118.08	\$7,988.00	\$1,835.86	\$39.14	\$9,863.00

On page 4 of the Manager's Summary, GSH states:

In Appendix I.1 you will see that due to the rounding of rates in the IRM3 generator, the residential customer is receiving more money back and the GS < than 50 is receiving none. We propose rates that round to 5 decimal places to ensure that each customer class is receiving their portion of the

PILs return within the year.

## **Submission**

Board staff notes that the usual practice by the Board is to dispose of audited deferral and variance account balances. The balances in account 1521 in the application provided by GSH are not audited. Board staff notes that the Board has approved the disposition of unaudited balances in account 1521 in both the Horizon (EB-2011-0172) and Hydro One Brampton (EB-2011-0174) 2012 IRM proceedings.

Board staff has no concerns with the \$9,863 balance in account 1521. Board staff notes that this balance includes the correct calculation of forecasted carrying charges extending to April 30, 2012.

Board staff does note however that Appendix C of Chapter 3 of the Filing Requirements states:

In the event where the calculation of one of more rate classes' rate adder or rate rider results in energy-based kWh rate riders of \$(0.0000) when rounded to the fourth decimal place and demand-based kW rate riders of \$(0.00) when rounded to the second decimal place, or are negligible, the entire Board-approved amount for recovery or refund should be recorded in a USoA account to be determined by the Board for disposition in a future rate setting.

Board staff takes no issue with GSH's proposal to dispose of the combined balances in accounts 1521 and 1562, provided that the quantum of the calculated rate riders meets the criteria defined in Chapter 3 of the Filing Requirements. Should the combined, final Board-approved balances of accounts 1521 and 1562 result in appropriate rate riders for all classes, Board staff accepts GSH's proposal to dispose of the balances in accounts 1521 and 1562. Otherwise, Board staff submits that if the combined balances in accounts 1521 and 1562 are immaterial, as per the Filing Requirements, the Board should direct GSH to record those balances in account 1595 for future disposition. The proposed balance in account 1562 will be discussed below.

## **Smart Grid Funding Adder Request**

## Background

In mid-May 2011, GSH was approached by S&C Electric to act as a host utility for a Smart Grid demonstration project. GSH accepted S&C Electric's proposal with the condition that:

Greater Sudbury Hydro cannot commit to fully participate in this project unless and until the Ontario Energy Board approves a rate rider, funding adder or recovery through the provincial cost recovery mechanism set out in section 79.1 of the OEB act for all incremental costs associated with this project... an LDC the size of Greater Sudbury Hydro cannot absorb the estimated \$1.1 million (SGF) non-eligible construction costs within our existing rate structure... Therefore Greater Sudbury reserves the right to terminate participation within thirty (30) days of the issuance of an Ontario Energy Board rate decision order affecting GSH's rate revenues.<sup>1</sup>

GSH has applied for a Smart Grid Rate Adder to fund a future Smart Grid demonstration project that will be undertaken in partnership with S&C Electric. GSH seeks to recover \$1,098,550 in capital costs and \$92,880 in two years' worth of maintenance costs from all rate classes using a volumetric rate adder with a 2-year recovery period. On page 17 of Appendix E of the Application, GSH also states:

As an addendum to this approval, GSH is seeking the Board's support in this application for the recovery of the annual maintenance costs with the next Cost of Service Application as this on-going cost component is part and parcel with the project.

The overall budget for the proposed project is \$11,165,550. Funding is proposed to come from three sources: (i) S&C Electric Canada (\$6,067,000), (ii) the Ministry of Energy's Smart Grid Fund (\$4,000,000) and (iii) GSH's proposed Smart Grid Funding Adder (\$1,191,430).

The Smart Grid Fund ("SGF") is a \$50 million fund, established by Ontario's Ministry of Energy in 2011, that is designed to "help accelerate the growth of Ontario's smart grid

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<sup>1</sup> Appendix E, Application, EB-2011-0169, page 3.

industry through targeted financial support for projects that advance the development of the smart grid in Ontario and provide economic development opportunities, including the creation of new jobs. The SGF complements Ontario's proactive smart grid policy and supports existing government priorities."<sup>2</sup> The SGF requires that all applicants applying for funding for a demonstration project must collaborate with an electricity distributor.

The SGF application process has two stages: (i) the Project Overview Submission and (ii) the Business Case Application. In response to Board staff interrogatory #5a, GSH provided the following update with respect to S&C Electric's SGF application:

S&C has received information from the Ministry of Energy that their application has passed first review and is one of fifteen (15) projects that are subject to a final review. The project is currently under final review; S&C has had a visit from the MoE Auditor and the application will be accepted or rejected in due course. To be clear, this is S&C's application, GSH has no part in the application to the Ministry except to act as host LDC. The Ministry has given no firm timeline for a decision.

The Ministry's SGF guidelines state:

There is no commitment by the Ministry to fund applications even if the Applicant passes the first stage of the application process.

In response to Board staff's question as to what actions GSH would take if the Board approved funding and the Ministry subsequently denied S&C's application, GSH stated<sup>3</sup>:

GSH is aware there is a deferral account already in place for Smart Grid and that a separate sub account would be set up to track funds received. It is our understanding that we would be required to undergo a prudence review in the first cost of service application following the implementation of this adder. If in fact, the project is denied, the prudence review would likely result in termination of the adder and refund of the monies collected would be a credit rider in the COS application.

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<sup>2</sup> Smart Grid Fund Guidelines, Appendix E, EB-2011-0169, page 23.

<sup>3</sup> Board staff interrogatory responses, Interrogatory 5b, EB-2011-0169, page 6.

In response to VECC interrogatory #6, GSH provided the following explanation for why it believes it is appropriate to seek approval for this type of project outside of a cost of service application:

GSH believes it is appropriate for the Board to approve a Smart Grid Rate Adder to allow GSH to act as the host Utility for this project. Without approval of this funding GSH will not participate.

When asked, in SEC interrogatory #5, why GSH proposed to collect expenditures through a rate adder instead of seeking approval for a deferral account, GSH stated:

The Applicant wants the project vetted and approved up front with funding approved. We will not accept the regulatory risk commensurate with funding a demonstration project that will be reviewed and approved at a later date.

GSH's project proposed to use a Smart Grid solution in conjunction with community energy storage (CES) units to create a "Microgrid" capable of separating customer loads from the bulk supply system where local sources of distributed generation are present. The CES units will also be used to improve the efficiency, reliability and power quality of power delivered in the Microgrid at the feeder level.

Some of the benefits of the successful completion of this project stated by GSH include improved power quality and reliability for customers connected to the CES units.<sup>4</sup> GSH also stated that, among other things, the information gained from the demonstration project will aid in developing voltage management tools that will allow higher penetrations of inverter based renewable generation.<sup>5</sup>

GSH indicated that it had performed a review of demonstration projects in other jurisdictions to ensure there was no undue duplication of other work. GSH also noted that the SGF approval process ensures that the proposed demonstration project, if approved, will not unnecessarily duplicate other ongoing or planned demonstration projects.

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<sup>4</sup> Appendix E, Application, EB-2011-0169, pages 6 – 11.

<sup>5</sup> VECC Interrogatory Responses #5f, EB-2011-0169, page 17.



## Submission

Given the uncertainty regarding the timing of the Ministry of Energy's decision on S&C Electric's SGF application, Board staff submits that it is premature to approve funding for the proposed demonstration project at this time, particularly when the availability of such a large portion of the project's budget is in question. While Board staff does see the value in the proposed project, Board staff questions the value in collecting funds from rate payers, and the carrying charges that will result, for a project that may not be undertaken. Board staff suggests that GSH may wish to address any changes in S&C Electric's SGF application status as part of its reply submission.

Page 21 of the *Filing Requirements: Distribution System Plans – Filing under Deemed Conditions of License* (EB-2009-0397) states the following with respect to funding adders for GEA related activities:

The costs collected through a funding adder (sometimes referred to as a rate adder) are not subjected to a prudence review before the adder is approved. The costs will be subject to a prudence review in the first cost of service application following the implementation of the adder. The Board will require the distributor to refund to ratepayers costs already collected through the adder, but found to be imprudent.

Where costs recorded in a deferral account have not been subjected to a prudence review, recovery of these costs may be denied at the time the Board considers an application to dispose of the balances in the account.

GSH noted that it wanted the proposed project vetted and approved in advance as it will not accept the regulatory risk of funding a demonstration project that will be reviewed and approved at a later date. Board staff notes that, by its definition, the funding adder cannot fully protect GSH from regulatory risk as the amounts have not undergone a prudence review. Similarly, the Board's approval of the Smart Grid funding adder would not constitute the Board's approval for the ongoing maintenance costs for the project that GSH mentioned on page 17 of Appendix E of the Application.

For these reasons, Board staff believes that the proposed project, as described on record, would be more appropriately addressed as part of the Green Energy Act plan

that GSH is required to file with its next Cost of Service application, currently scheduled to be filed in April 2012 (for January 1, 2013 rates) or August 2012 (for May 1, 2013 rates).

Finally, Board staff notes that in the Smart Grid Rate Adder calculation, provided by GSH on page 42 of Appendix E of the Application, GSH has included the entirety of the project's budgeted capital expenditures for recovery from rate payers over a two year period. Board staff notes that if the Board were to approve the Smart Grid Rate Adder, GSH should only recover the annual revenue requirement on the capital expenditures and not the entire sum of the capital expenditures. This approach would be consistent with the Board's current practices regarding smart meter cost recovery, as well as, consistent with the approach taken by the Board in the approval of Horizon's Green Energy Act Plan in its last cost of service application (EB-2010-0131).

### **Lost Revenue Adjustment Mechanism ("LRAM") Claim**

#### **Background**

GSH originally sought to recover a total LRAM claim of \$328,086, including carrying charges, over a one-year period. The lost revenues include the effect of Third Tranche CDM programs implemented from 2005-2007 and OPA CDM programs implemented from 2007-2010 for the period from 2008-2010. In response to Board staff interrogatories, GSH noted that savings achieved from its 2005-2007 Third Tranche CDM programs were erroneously included in its application and that it also erroneously omitted energy savings from 2007 OPA CDM programs from its application. GSH also updated its LRAM claim using the final 2010 OPA program results. As a result of these changes, the LRAM claim has been revised to \$329,030, including carrying charges.

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. In its decision on Horizon's application (EB-2009-0192) for LRAM recovery, the Board noted that distributors should use the most current input assumptions available at the time of the third party review when calculating an LRAM amount.

#### **Submission**

*Persisting impacts of 2007-2009 programs and 2009-2010 lost revenues*

GSH has requested the recovery of an LRAM amount that includes lost revenues for 2009 CDM programs in 2009, as well as the persisting impacts from 2007-2009 programs from January 1, 2009 to December 31, 2010.

Board staff notes that GSH's rates were last rebased in 2009.

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>6</sup>.

Board staff also notes that in its Decision and Order on Hydro One Brampton's 2012 IRM application (EB-2011-0174), the Board disallowed LRAM claims for the rebasing year as well as persistence of prior year programs in and beyond the test year on the basis that these savings should have been incorporated into the applicant's load forecast at the time of rebasing.

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. GSH 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 2009 and 2010 lost revenues from 2009 CDM programs or the persisting lost revenues from 2007-2009 CDM programs in 2009 and 2010 as these amounts should have been built into GSH's last approved load forecast.

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<sup>6</sup> Section 5.2: Calculation of LRAM, Guidelines for Electricity Distributor Conservation and Demand Management (EB-2008-0037)

### *2007, 2008 and 2010 programs*

Board staff notes that GSH has not collected the lost revenues associated with CDM programs delivered in 2007, 2008, and 2010, years where GSH was under IRM. Board staff supports the approval of the 2007, 2008, and 2010 lost revenues, including the persisting lost revenues from 2007 programs in 2008 as these lost revenues took place during IRM years and GSH 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 GSH provide an updated LRAM amount that only includes lost revenues from 2007, 2008, and 2010 CDM programs, including the persisting lost revenues noted above, in the years 2007, 2008, and 2010, the associated carrying charges, and the subsequent rate riders.

### **Account 1562 – Deferred Payments in Lieu of Taxes (“PILs”)**

#### **Background**

The PILs evidence filed by GSH in this proceeding includes tax returns, financial statements, Excel models from prior applications, calculations of amounts recovered from customers, SIMPIL Excel worksheets and continuity schedules that show the principal and interest amounts in the account 1562 deferred PILs balance. In pre-filed evidence GSH applied to refund to customers a credit balance of (\$60,047) and for West Nipissing a recovery of \$14,668, for a combined net refund amount of (\$45,379). In response to Board staff interrogatories, GSH filed revised evidence that now supports a refund to customers of (\$29,326) and for West Nipissing a recovery of \$9,837, for a combined net refund of (\$19,489). However, GSH has requested that the original net refund amount filed of (\$45,379) be accepted for disposition.

#### **Submission**

#### **Excess Interest True-up Calculations**

When the actual interest expense, as reflected in the financial statements and tax

returns, exceeds the maximum deemed interest amount approved by the Board, the excess amount is subject to a claw-back penalty and is shown in sheet TAXCALC as an extra deduction in the true-up calculations.

GSH replied to Board staff's interrogatories and provided a table that discloses interest expense. Interest expense disclosed in its financial statements and deducted in its tax returns is higher in each year for 2001 through 2005 than GSH used in the SIMPIL model interest true-up calculations for the same years. The Board-approved deemed interest is \$2,675,825.

In its audited financial statements for 2001 to 2005, GSH has disclosed short-term debt consisting of a promissory note payable and current portion of long-term debt on the balance sheets. Long-term debt is also disclosed. Starting in 2002, GSH issued non-cumulative preferred shares with a rate of 7.25%.

GSH's income statements show two lines for interest expense; one line for interest on promissory note payable, and another line for interest. This interest expense analysis prepared by Board staff is shown in the following table. There is no indication that a dividend on the preferred shares has been paid or declared in any year. For tax purposes, preferred share dividends are treated as interest and a deduction against income is allowed.

Interest Expense	2001	2002	2003	2004	2005
<b>From audited financial statements</b>					
Interest on promissory note payable	3,531,660	3,531,660	3,531,660	3,531,660	3,531,660
Interest (Note 1 below)	390,453	433,844	425,161	493,610	538,796
Total per income statements	3,922,113	3,965,504	3,956,821	4,025,270	4,070,456
<b>Interest used in SIMPIL true-up</b>	886,563	3,531,660	3,531,660	3,531,660	3,531,660
1) Includes interest on customer deposits		28,411	1,849	1,957	24,737

The Board decided in EB-2011-0174 that Hydro One Brampton's interest expense used to calculate the interest claw-back variance should not include interest on customer deposits. In EB-2011-0206 the Board decided that Whitby Hydro must use the interest expense disclosed in its financial statements and deducted in its tax returns in calculating the interest claw-back variance.

Board staff submits that GSH should clarify if it paid preferred share dividends and deducted these payments as interest expense in the years 2002 through 2005.

Board staff submits that GSH should use the sum of the interest expense shown in its income statements as identified in the table above, and used as deductions in its income tax returns, in the SIMPIL models for 2001 through 2005 for the interest true-up calculations, and update its account 1562 deferred PILs continuity schedule.

Board staff submits that interest on customer deposits should be deducted from total interest per the financial statements to be consistent with the decision for Hydro One Brampton.

#### Regulatory Assets Excluded from PILs Calculations

In its evidence, GSH has indicated that it agrees that regulatory assets and liabilities should be excluded from the determination of the balance in account 1562 deferred PILs. However, in the 2004 SIMPIL model on sheets TAXREC and Tax Reserves, GSH has included an addition to taxable income for deferred PILs in the amount of \$132,845. Consequently, this amount trues up to ratepayers. GSH inserted a comment in its Excel worksheet that states that the amount should not be included, but did not move the amount to sheet TAXREC3 to avoid the true-up to ratepayers.

Board staff submits that GSH should move the regulatory asset addition of \$132,845 to sheet TAXREC3 in the 2004 SIMPIL model so that the addition does not true up to ratepayers and is consistent with the Board's decisions, and update its account 1562 deferred PILs continuity schedule.

All of which is respectfully submitted