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BY EMAIL

February 10, 2012

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

Dear Ms. Walli:

Re: PUC Distribution Inc.
2012 IRM Distribution Rate Application
Board Staff Submission
Board File No. EB-2011-0101

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 PUC Distribution Inc. and to all other registered parties to this proceeding.

In addition please remind PUC Distribution Inc. that its Reply Submission is due by February 24, 2012.

Yours truly,

Original Signed By

Suresh Advani

Encl.

Ontario

ONTARIO ENERGY BOARD

STAFF SUBMISSION

2012 ELECTRICITY DISTRIBUTION RATES

PUC Distribution Inc.

EB-2010-0101

February 10, 2012

Board Staff Submission
PUC Distribution Inc.
2012 IRM Rate Application
EB-2011-0101

Introduction

PUC Distribution Inc. ("PUC") filed an application (the "Application") with the Ontario Energy Board (the "Board"), received on November 10, 2011, under section 78 of the *Ontario Energy Board Act, 1998*, seeking approval for changes to the distribution rates that PUC charges for electricity distribution, to be effective May 1, 2012. The Application is based on the 3rd 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 PUC.

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

Board staff makes submissions on the following matters:

- Review and Disposition of Group 1 Deferral and Variance Account Balances;
- Account 1521 – Special Purpose Charge Disposition (SPC);
- Lost Revenue Adjustment Mechanism ("LRAM") and Shared Savings Mechanism ("SSM") Claim; and
- Account 1562 – PILs Disposition.

Review and Disposition of Group 1 Deferral and Variance Account Balances

Background

The *Report of the Board on Electricity Distributors' Deferral and Variance Account Review Initiative* (the "EDDVAR Report") provides that during the IRM plan term, the distributor's Group 1 audited account balances will be reviewed and disposed if the preset disposition threshold of $0.001 per kWh (debit or credit) is exceeded. Debit balances are recoverable from customers whereas credit balances are amounts payable to customers.

PUC requested that the Board review and approve the disposition of its December 31, 2010 balances of Group 1 Deferral and Variance account balances, including interest as of April 30, 2012. The total balance of the Group 1 accounts is a credit of $851,587. This amount results in a total claim per kWh of ($0.00118), which exceeds the preset disposition threshold.

PUC proposed a one-year disposition period for its Group 1 account balances.

Submission

The Quantum

Board staff notes that the principal balances to be disposed as of December 31, 2010 reconcile with the amounts reported as part of the Reporting and Record-keeping Requirements ("RRR"). Board staff therefore submits that the balances should be disposed on a final basis.

Disposition Period

Board staff notes that PUC's application is consistent with the guidelines outlined in the EDDVAR Report with respect to the one-year default disposition period for Group 1 accounts.

Board staff recommends that a one-year disposition period be adopted for all of PUC's Group 1 account balances.

Account 1521 – Special Purpose Charge Disposition

Background

In its Manager's Summary, PUC indicated a total claim amount of $1,949. In response to Board staff interrogatory #4, PUC provided the following table which indicates a total for disposition, comprising principal as of December 31, 2011 and interest to April 30, 2012.

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 Year End Carrying Charges Balance	Forecasted Carrying Charges for 2012 (Jan.1 to Apr.30)	Total for Disposition (Principal & Interest)
$275,977	$135,358	$884	$140,619	$884	$140,084	$522	$535	$1,406	$8	$1,949

Submission

Board staff notes that the usual practice by the Board is to dispose of audited deferral and variance account balances. Board staff further 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 submits that the Board should authorize the disposition of Account 1521 as of December 31, 2010, plus the amount recovered from customers in 2011, including the carrying charges as of April 30, 2012.

Board staff submits that if the Board decides to dispose of account 1521, the disposition should be on a final basis and account 1521 should be closed.

LRAM and SSM 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.

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.

PUC has requested to recover a total LRAM claim of $623,790 that includes carrying charges of $28,832 over a one-year period. The lost revenues include the effect of CDM programs implemented from 2005-2010. PUC has requested approval of these savings persisting until April 30, 2012. PUC has also requested to recovery a total SSM claim of $53,663. The SSM claim is based on 2005-2008 Third Tranche CDM Programs.

Submission

<u>LRAM - Persisting impacts of 2005-2008 programs and 2008 lost revenues</u>

PUC has requested the recovery of an LRAM amount that includes lost revenues in 2008 for the persisting impacts from 2005-2007 CDM programs. PUC has also requested recovery of the persisting lost revenues from programs delivered from 2005-2008 in 2009, 2010, 2011, and for a portion of 2012.

Board staff notes that PUC's rates were last rebased in 2008.

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[1].

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. PUC 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 2005-2007 CDM programs in 2008 or the persisting lost revenues from 2005, 2006, 2007, and 2008 CDM programs in 2009, 2010, 2011 or 2012 as these amounts should have been built into PUC's last approved load forecast.

<u>LRAM - 2005, 2006, 2007, 2009 and 2010 programs</u>

Board staff notes that PUC has not collected the lost revenues associated with CDM programs delivered from 2005, 2006, 2007, 2009 and 2010. Staff notes that except for 2006, PUC was under IRM for these years. In 2006, PUC rebased on a historical test year basis and there was no opportunity for PUC to account for CDM activity in its rates. Board staff supports the approval of the 2005, 2006, 2007, 2009, and 2010 lost revenues, including the persisting lost revenues from 2005 programs in 2006, the persisting lost revenues from 2005 and 2006 programs in 2007, and the persisting 2009 lost revenues in 2010, as PUC 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

[1] Section 5.2: Calculation of LRAM, Guidelines for Electricity Distributor Conservation and Demand Management (EB-2008-0037)

applications from Horizon (EB-2011-0172), Hydro One Brampton (EB-2011-0174), and Whitby Hydro (EB-2011-0206).

Board staff requests that PUC provide an updated LRAM amount that only includes lost revenues from 2005-2007 CDM programs and 2009 and 2010 CDM programs, including the persisting lost revenues noted above, in the years 2005, 2006, 2007, 2009, and 2010 and the associated rate riders.

Board staff submits that it is premature to consider any lost revenues persisting in 2011 and 2012.

<u>SSM Claim</u>

Board staff notes that PUC has applied for SSM in relation to its 2005-2008 Third Tranche CDM Programs. Board staff submits that PUC's application for SSM recovery is consistent with the Board's Guidelines and supports the approval of the SSM amount of $53,663.

Account 1562 Deferred Payments-in-lieu of Taxes ("PILs") Disposition

Background

The PILs evidence filed by PUC in this proceeding includes tax returns, financial statements, Excel models from prior applications, calculations of amounts recovered from customers, SIMPIL[2] Excel worksheets and continuity schedules that show the principal and interest amounts in the account 1562 deferred PILs balance. In pre-filed evidence, PUC applied to refund to customers a credit balance of $61,831 consisting of a credit principal amount of $70,331 less related debit carrying charges projected to April 30, 2012 of $8,500. On November 28, 2011, PUC filed amended evidence requesting to refund $22,659 to customers consisting of a credit principal amount of $39,861 less debit carrying charges of $17,202.

[2] Spreadsheet implementation model for payments-in-lieu of taxes

2002, 2004 and 2005 Applications

PUC filed its 2002 rate application according to the filing guidelines issued by the Board. It calculated the PILs proxies which included income tax, large corporation tax (“LCT”) and Ontario capital tax (“OCT”). Its approved rate base was $45,747,269. PUC chose the blended maximum income tax rate for 2002 of 38.62% based on its tax profile.

In order to mitigate rates, PUC requested only to recover OCT and LCT from ratepayers. It decided to forego the income tax PILs that the Board would have allowed in rates consistent with the filing guidelines. The Board decided the following.

> “The Board notes that the Applicant has chosen not to reflect fully the provisions for both the 2001 deferred PILs calculation and the 2002 PILs calculation in its submission. This was done by the Applicant in anticipation that its taxable income will be zero in 2002 as a result of the projected net income being less than and the interest expense being greater than those values used in the determination of the PILs amounts. The Board accepts the Applicant’s levels for the 2001 deferred PILs and the 2002 PILs in its rate submission.”[3]

In its 2005 rate application, PUC again followed the guidelines and calculated proxies for income tax PILs and OCT. PUC selected the blended maximum income tax rate of 36.12% based on its tax profile. Consistent with the 2002 and 2004 applications, PUC chose to mitigate rates and requested only to recover capital taxes.

> “The Board finds PUC Distribution Inc.’s deviation from the guidelines of using December 31, 2004 balances for its Regulatory Asset balances is justifiable due to the unique nature of the utility’s power contract with Great Lakes Power and the significance of the balance of the power cost variance amount. The Board also notes that the Applicant applied only for a portion of the 2005 PILs proxy based on the Capital Tax amount instead of the total PILs amount, mitigating the impact of the power cost variance. Therefore, the Board finds PUC Distribution Inc.’s request to use December 31, 2004 balances for its Regulatory Asset balances reasonable.”[4]

Since PUC did not did not have an income tax PILs proxy incorporated into 2002, 2003, 2004 and 2005 rates, and consequently did not recover any income tax PILs from its

[3] RP-2002-0054-/EB-2002-0063, Board decision, March 4, 2002, page 5.
[4] RP-2005-0013/EB-2005-0071, Board decision, March 28, 2005, page 4.

customers, PUC does not have an income tax PILs proxy for true-up purposes. OCT and LCT remain subject to the true-up methodology.

Actual interest exceeds the maximum deemed interest in the tax years 2002 through 2005. The SIMPIL models for each of those years calculated an excess interest true-up. PUC deleted the Excel formulas that include the excess interest amount in the total on which the tax true-up amount is based.[5]

Submission

Based on its specific tax facts, Board staff submits that PUC correctly chose the blended maximum income tax rates for the SIMPIL true-up calculations to be consistent with the approach used in its rate applications.. However, because there were no income tax PILs proxies included in rates during the period 2002 -2005, there cannot be a true-up of line item amounts.

Board staff agrees with PUC that the excess interest true-up should not be refunded to customers since the ratepayers did not incur the cost of income tax PILs. Board staff agrees with PUC's alteration of the SIMPIL models in this isolated instance since PUC received Board approval for its mitigation strategies in the period 2002 through 2005.

Board staff submits that PUC has followed the regulatory guidance and the decisions issued by the Board in determining the credit amount of $22,659 in its Account 1562 Deferred PILs evidence to be refunded to customers[6].

All of which is respectfully submitted.

[5] SIMPIL models for 2001 through 2005. Revised application, November 29, 2011, pdf pages 28-29.
[6] Decisions in Combined Proceeding, EB-2008-0381 – August 12, 2011; June 24, 2011; December 23, 2010; December 18, 2009. Hydro One Brampton, EB-2011-0174, December 22, 2011. Whitby Hydro, EB-2011-0206, December 22, 2011. Staff Discussion Paper, August 20, 2008.