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BY EMAIL

February 24, 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: Brantford Power Inc.
2012 IRM3 Distribution Rate Application
Board Staff Submission
Board File No. EB-2011-0147

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 Brantford Power Inc. and to all other registered parties to this proceeding.

In addition please remind Brantford Power Inc. that its Reply Submission is due by March 2, 2012.

Yours truly,

Original Signed By

Georgette Vlahos
Analyst, Applications & Regulatory Audit

Encl.

Ontario

ONTARIO ENERGY BOARD

STAFF SUBMISSION

2012 ELECTRICITY DISTRIBUTION RATES

Brantford Power Inc.

EB-2011-0147

February 24, 2012

Board Staff Submission
Brantford Power Inc.
2012 IRM3 Rate Application
EB-2011-0147

Introduction

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

In the interrogatory phase, Board staff identified certain discrepancies in the data entered in the application model by Brantford. 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, Brantford confirmed that they were errors and provided the corrected data. Board staff will make the necessary corrections to Brantford'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 Brantford. Pursuant to Guideline G-2008-0001, revised on June 22, 2011, Board staff notes that the Board will update the applicable data at the time of this Decision based on the updated Uniform Transmission Rates.

During the interrogatory phase of this proceeding, Board staff noted that it was unable to verify the data entered on tab 5 of the Tax-Savings Workform with Brantford's previous cost of service draft rate order or decision for 2008 rates (EB-2007-0698). In response to interrogatories, Brantford provided evidence which supports the data entered on tab 5 of the workform and confirmed that "Taxable Capital" and "Regulatory Taxable Income" need to be adjusted in order for the workform to reflect Brantford's previous cost of service decision. Brantford requested for Board staff to make the necessary corrections to the workform. In all other respects, Brantford completed the

Tax-Savings Workform with the correct rates and it reflects the Board's decision in Brantford's 2008 cost of service application (EB-2007-0698).

Brantford's total Group 1 Deferral and Variance Account balances amounts to a credit of $3,766,758. Based on the threshold test calculation, the Group 1 Deferral and Variance Account balances equate to $0.00409 per kWh which exceeds the threshold, and as such, Brantford requested disposition of these accounts over a one year period.

Board staff has reviewed Brantford'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*. Also, the preset disposition threshold has been exceeded. Subject to the clarification sought below, Board staff has no issue with Brantford's request to dispose of its 2010 Deferral and Variance Account balances at this time over the requested one year period.

Board staff notes that Brantford did not enter interest amounts from January 1, 2012 to April 30, 2012. In its reply submission, Brantford should confirm interest amounts from January 1, 2012 to April 30, 2012 for each Group 1 account in order for Board staff to make the necessary corrections to Brantford's Rate Generator model at the time of the Board's Decision on the current Application.

Brantford provided a reconciliation of Account 1521 – Special Purpose Charge as requested by Board staff during the interrogatory phase. Board staff notes that the usual practice of the Board is to dispose of audited deferral and variance account balances. 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.

Based on Brantford's reconciliation, Board staff supports Brantford's request to dispose of the balance in this account of a debit of $19,565. 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 appropriate carrying charges to 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.

Board staff submits that Account 1521 should be disposed over a period of one year, as requested by Brantford.

Board staff makes detailed submissions on the following matters:

- Lost Revenue Adjustment Mechanism Claim; and
- Payments in Lieu of Taxes – PILS 1562.

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.

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 a LRAM amount.

Brantford requested to recover a total LRAM claim of $642,821.54 over a one-year period. In response to Board staff interrogatories, Brantford updated its LRAM claim using final 2010 program results from the OPA. Brantford is now requesting approval of an updated LRAM claim of $643,351.43. The lost revenues include the effect of CDM programs implemented from 2005-2010. Brantford requested approval of these savings persisting for the period from 2006-2011.

Submission

Persisting impacts of 2005-2008 programs and 2008 lost revenues

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

Board staff notes that Brantford'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. Brantford may want to highlight in its reply whether the issue of an LRAM application was addressed in its 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 2005-2007 CDM programs in 2008 or the persisting lost revenues from 2005, 2006, 2007, and 2008 CDM programs in 2009, 2010, and 2011 as these amounts should have been built into Brantford's last approved load forecast.

2005, 2006, 2007, 2009 and 2010 programs

Board staff notes that Brantford has not collected the lost revenues associated with CDM programs delivered from 2005, 2006, 2007, 2009, and 2010. Board staff notes that except for 2006, Brantford was under IRM for these years. In 2006, Brantford rebased on a historical test year basis and there was no opportunity for Brantford 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

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

2005 programs in 2006, the persisting lost revenues from 2005 and 2006 programs in 2007, and the persisting lost revenues from 2009 programs in 2010, as Brantford 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 the 2012 IRM applications from Horizon (EB-2011-0172), Hydro One Brampton (EB-2011-0174), and Whitby Hydro (EB-2011-0206).

Board staff requests that Brantford provide an updated LRAM amount that only includes lost revenues from 2005, 2006, 2007, 2009, and 2010 CDM programs, including the persisting lost revenues noted above, in the years 2005, 2006, 2007, 2009, and 2010 and the subsequent rate riders. This will allow for the issuance of the final rate order on a timelier basis if the Board approves only the lost revenues associated with the 2005, 2006, 2007, 2009, and 2010 programs.

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

PAYMENTS IN LIEU OF TAXES – PILS 1562

Background

The PILs evidence filed by Brantford for the period October 1, 2001 through April 30, 2006 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, Brantford applied to refund to customers a credit balance of $6,873,214 consisting of a principal credit amount of $5,218,693 plus related credit carrying charges of $1,654,521.[3]

On January 25, 2012 Brantford updated its evidence to disclose a refund amount of $1,445,343 consisting of a principal credit of $1,196,903 plus related credit carrying charges of $248,440. In response to interrogatories, Brantford amended its evidence to support a refund of $1,629,029 consisting of a principal credit amount of $1,368,521 plus related carrying charges of $260,508.[4] On February 21, 2012 Brantford filed a revised continuity schedule that shows a corrected balance of $1,910,902 after changes

[2]Spreadsheet implementation model for payments-in-lieu of taxes
[3] Brantford_a_iii_2001-2010 Deferred PILs 1562 Account – Original_20111010.XLS
[4] Brantford's PILs 1562 continuity schedule - 2001-2012 Deferred PILs 1562 Account - Revised_012312.

in the tax rates in the 2002 SIMPIL model.[5]

Submission

Income Tax Rates Used in SIMPIL Models Sheet TAXCALC

The SIMPIL models require income tax rates to be input in order to calculate the variances that support some of the entries in account 1562 deferred PILs. These income tax rates are entered on sheet TAXCALC by the applicant. Brantford originally entered 19.12% in TAXCALC cell E122 to calculate the tax impact, and 37.50% in cell E130 for the gross-up calculations. To calculate the change in tax legislation Brantford inserted 38.62% in cell E138 but then entered 18% in cell E175 as the tax rate for the gross-up calculations. The correct tax rates for Brantford to use in 2002 SIMPIL are 38.62% and 37.50% as reflected in the decision in the Combined Proceeding.[6]

In answer to Board staff's interrogatory #2 which requested Brantford to insert the income tax rates consistent with its tax evidence in the 2002 SIMPIL model, Brantford responded "Updated - resulted in a change in true up from $208,038 to $410,091."[7]

The true-up amount is an increase in the credit or refund to customers. Brantford provided the amended 2002 active Excel SIMPIL model and a revised continuity schedule. By inserting this changed true-up credit amount of $410,091 into the continuity schedule, Brantford has estimated that the total refund to customers is $1,910,902 made up of a principal credit of $1,575,584 and credit carrying charges of $335,318.

Board staff submits that the revised income tax rates entered into the 2002 SIMPIL model are the correct tax rates for Brantford based on its specific tax evidence.

Interest Expense

Board staff asked Brantford to provide a table of its interest expense for the period 2001-2005. The information provided by Brantford is shown in the table below.

[5] BRANTFORD_SUB_2001-2012 Deferred PILs 1562 Account_Continuity Schedule Revised_20120221.xls
[6] EB-2008-0381, Decision and Order, June 24, 2011, page 17.
[7] Reply to Board staff interrogatories, February 10, 2012, page 4, #2.

Table 1

Interest Expense Components	**2001**	**2002**	**2003**	**2004**	**2005**
Promissory note	2,177,025	2,177,025	2,177,025	2,177,025	2,177,025
IESO prudentials					68,813
Retailer prudential		275	11,979	2,675	3,378
Customer security deposits	60,244	17,850	16,795	26,810	36,740
Non-capitalized advances					3,592
Bank charges & GST return	169	2,680		3,962	
Total	2,237,438	2,197,830	2,205,799	2,210,472	2,289,548

Brantford stated in its replies to interrogatories that only interest on the promissory note to its shareholder is subject to the true-up, and that miscellaneous items listed in the above chart are not.

> Brantford feels only interest paid on debt having interest rates in excess of the 7.25% that the OEB allowed should be included in the excess interest true-up calculations. Any interest on borrowings from non-related parties at rates less than the allowed 7.25% should be excluded from the true-up calculations.[8]

Board staff prepared the following table of interest expense from Brantford's audited financial statements. The interest expense provided in the table above for 2004 does not appear to agree with the financial statements.

Table 2

Financial Statements	**4th Qtr. 2001**	**2002**	**2003**	**Restated 2004**	**2005**
Interest on long term debt	537,438	2,197,830		2,177,025	2,177,025
Interest on long term liabilities			2,205,799		
Other financing expenses				102,260	112,523
Total	537,438	2,197,830	2,205,799	2,279,285	2,289,548

Brantford did not input the total interest expense from its financial statements in the SIMPIL models. One example follows.

[8] Reply to Board staff interrogatories, February 10, 2012, page 8, (I).

> BPI did not update cell E201 as the only long term debt interest incurred during 2002 was $2,177,025 (Promissory note to Shareholder $24,189,168 @ 9%). The other $20,805 related to miscellaneous items detailed in the chart from response (J) and is not subject to true-up.[9]

Board staff submits that Brantford should reconcile the 2004 interest expense in Table 1 with its interest expense in the financial statements shown in Table 2.

Board staff has provided a revised chart of Brantford's interest expense below that Board staff believes reflects the Board's decision in the Hydro One Brampton case.[10] The interest shown for 2004 is not complete because Brantford did not file details that could be reconciled to the financial statements in response to Board staff's interrogatories.

Table 3

Interest Expense Components	**4th Qtr. 2001**	**2002**	**2003**	**2004**	**2005**
Promissory note	537,438	2,177,025	2,177,025	2,177,025	2,177,025
IESO prudentials					68,813
Retailer prudential		275	11,979	2,675	3,378
Non-capitalized advances					3,592
Bank charges & GST return		2,680		3,962	
Total	537,438	2,179,980	2,189,004	2,183,662	2,252,808

Board staff submits that the total interest expense shown in each year in Table 3, after completing the analysis for 2004, should be used by Brantford to calculate the interest true-up amounts for the claw-back penalty.

Board staff submits that Brantford should make the changes in the 2002-2005 SIMPIL models and in the PILs 1562 continuity schedule to update the variances related to the tax rate error in the 2002 SIMPIL model, and the interest expense true-up calculations for 2002 through 2005. Board staff requests Brantford to file the active Excel SIMPIL models and Excel continuity schedule to facilitate the final review of its evidence in this case.

[9] Reply to Board staff interrogatories, February 10, 2012, page 5, #2.
[10] EB-2011-0174, Board Decision and Order, December 22, 2011, pages 9-10.

Board staff estimates that after correcting for the tax rate error in the 2002 SIMPIL, and using the interest expense from Table 3, the balance to refund to ratepayers will be approximately $1,975,018 including interest carrying charges.

Board staff submits that the revised credit amount of $1,975,018 to be refunded to ratepayers, plus any adjustments related to 2004 interest expense, has been calculated in accordance with the regulatory guidance and the decisions issued by the Board in determining the amounts in Account 1562 Deferred PILs.[11]

All of which is respectfully submitted

[11] 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.