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**BY PRIORITY POST**

March 7, 2002

Brian Wilkie  
General Manager, Secretary-Treasurer  
Niagara Falls Hydro Inc.  
7447 Pin Oak Drive  
P.O. Box 120  
Niagara Falls, ON  
L2E 6S2

Dear Mr. Wilkie:

**Re: Niagara Falls Hydro Inc.  
March 2002 LDC Rate Adjustments  
Board File No. RP-2002-0095/EB-2002-0104**

The Board has today issued its Decision and Order in the above matter and an executed copy is enclosed herewith.

Yours truly,



Peter H. O'Dell  
Assistant Board Secretary

Encl.



RP-2002-0095  
EB-2002-0104

**IN THE MATTER OF** the *Ontario Energy Board Act*,  
1998, S.O. 1998, c.15 (Schedule B);

**AND IN THE MATTER OF** an Application by Niagara  
Falls Hydro Inc. for an order or orders approving or  
fixing just and reasonable rates.

**BEFORE:** Paul Vlahos  
Vice Chair and Presiding Member

George Dominy  
Vice Chair and Member

### **DECISION AND ORDER**

On December 21, 2001 the Ontario Energy Board ("the Board") issued filing guidelines to all electricity distribution utilities for the March 1, 2002 distribution rate adjustments. Supplemental instructions were issued on January 18, 2002.

Niagara Falls Hydro Inc. ("the Applicant") filed an Application ("the Application"), dated January 25, 2002, for an order or orders under section 78 of the *Ontario Energy Board Act, 1998* approving or fixing just and reasonable rates for the distribution of electricity, effective March 1, 2002.

The Applicant filed a revised application ("the Revised Application") dated February 18, 2002.

The Board published a generic Notice in newspapers across Ontario informing ratepayers of the distribution rate adjustments to be effective March 1, 2002 and providing the opportunity for ratepayers to participate in the proceeding or comment on the utility's application. In response to the Board's generic Notice, the Board received a total of 148 submissions in the form of a letter, facsimile, or e-mail. The total may be apportioned to the following four categories:

- 100 were copies of a template submission seeking an oral hearing, wanting to make oral submissions, claiming that rates are not just and reasonable. Another 9 were of the same template but indicated they did not wish to make an oral submission.
- 10 indicated that there should be an oral hearing and wanted to make a submission.
- 11 indicated that there should be an oral hearing but did not wish to make an oral submission.
- 18 made substantive submissions.

In some cases the submission named a specific electricity distributor, in other cases it did not. The Applicant was not named in any of the submissions.

By letter dated February 11, 2002 the Board directed electricity distributors to serve the Notice to the municipal corporation in the distributors' service area. No submissions were received.

The Applicant applied to adjust its distribution rates for the following:

- Input Price Inflation (IPI) and Productivity Factor as provided for in the Performance Based Regulation (PBR) Plan.
- the second of three installments of the utility's incremental Market Adjusted Revenue Requirement (MARR), \$900,071.
- the 2001 deferred Payments in Lieu of Taxes (PILs), \$605,578.
- the 2002 Payments in Lieu of Taxes (PILs), \$1,971,243.
- an interim transition cost recovery of \$561,306.
- a change in the Applicant's late payment penalty and a provision for revenue losses incurred by this change, \$221,293.

The Applicant also applied for a new specific service charge of \$12 for each payment history request.

Copies of the Application and supporting material are available for review at the Board's offices.

While the Board has considered all of the evidence filed in this proceeding, the Board has only referenced the evidence to the extent necessary to provide background to its findings.

## Board Findings

As noted above, a number of persons have written to the Board requesting that the Board hold an oral hearing in the matter of the applications by electricity distributors.

Under subsection 5.1(2) of the *Statutory Powers Procedure Act*, the Board shall not hold a written hearing where a party satisfies it that there is good reason not to hold a written hearing, in which case the Board will proceed by way of an oral or electronic hearing. Good reasons for proceeding by way of an oral hearing may include the existence of questions of credibility in which the Board will be assisted by the ability to observe the demeanor of witnesses or the complexity of evidence which parties should have the ability to test through cross-examination. Another good reason may be where an oral hearing would allow the Board to more expeditiously deal with an application.

The persons who have requested an oral hearing have not cited any such reasons but have in most cases merely stated that “the rates are not just and reasonable” and that they “would like the opportunity to present to the Board on this matter”.

The current proceeding is an extension of the process undertaken by the Board to restructure Ontario’s electricity distribution industry. To facilitate this work, the Board developed a regulatory framework that was the result of extensive consultation and public hearings. The current applications are the result of this framework, which is largely formulaic and includes for the first time the provision for the legislative requirement of PILs.

Persons have received an opportunity to make their concerns known to the Board through the published Notice which invited written submissions on the applications. The Board notes that a written hearing is a public process in which all documents received by the Board are available to the public. The Board further notes that most of the issues raised by the submissions of the persons requesting an oral hearing are outside of the scope of the Board's jurisdiction in this proceeding. For example, some persons raised issues of privatization of electricity services and limitations in international trade agreements on the ability of the government to make changes to Ontario's electricity system in the future. These are not relevant to the Board's duty in this proceeding to approve just and reasonable rates for an individual distributor regulated by the Board.

Therefore, the Board has decided not to hold an oral hearing in this matter.

The Board adjusts the Applicant's proposals for the following reasons.

For both 2001 and 2002, the Applicant did not adjust the income tax gross-up formula for the 1.12% surtax rate.

For both 2001 and 2002, the Applicant adjusted the accounting income for the accrued and paid amount regarding the Employee Benefits Plan (the "Plan"). As the accrued liability of the Plan was not recognized in the balance sheet until March 31, 2000, they were not considered in the establishment of the initial unbundled distribution rates. Hence, for the purpose of distribution rate adjustments, these amounts should not have been included in the PILs calculations.

For both 2001 and 2002, the Applicant did not calculate the Capital Cost Allowance ("CCA") based on the Net Book Value of the fixed assets allowed in the approved rate base. Instead, the Applicant calculated the CCA based on the

budgeted depreciation for the year. For the purpose of setting rates at this time, the Board has adjusted the CCA to equal the claimed depreciation in the PILs calculation.

As a result,

- the 2001 deferred Payments in Lieu of Taxes (PILs) amount was adjusted to correct for an overstatement of \$261,101.
- the 2002 Payments in Lieu of Taxes (PILs) amount was adjusted to correct for an overstatement of \$101,598.

The Board recognizes that cost-related charges are an important regulatory principle and there should not be undue subsidization for specific services offered by the Applicant. The Board has not had an opportunity to deal with this issue and other issues related to the specific services offered and fees charged by Ontario's electricity distributors. The Board intends to initiate a comprehensive review of these issues at the earliest opportunity. In the meantime the Board is reluctant to deal with changes to the existing services and charges on a utility-specific and/or piecemeal basis, unless specifically required by Chapter 11 of the Rate Handbook to facilitate the processing of a Service Transaction Request. The Board therefore does not approve the Applicant's proposal to introduce a new service charge at this time. In making this finding, the Board considered that the cost and revenue consequences for the Applicant appear to be minor.

Subject to these adjustments, the Board finds that the Applicant's proposals in the Revised Application conform with the Board's earlier decisions, directives and guidelines and the resulting rates are just and reasonable.

**THE BOARD ORDERS THAT:**

- 1) The rates set out in Appendix "A" of this Order are approved effective March 1, 2002.
- 2) The Applicant shall notify its customers of the rate changes coincident with the first bill reflecting the new rates.

**DATED** at Toronto, March 7, 2002.

ONTARIO ENERGY BOARD



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Peter H. O'Dell  
Assistant Board Secretary



Appendix "A"

RP-2002-0095  
EB-2002-0104

March 7, 2002

ONTARIO ENERGY BOARD



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Peter H. O'Dell  
Assistant Board Secretary

**Niagara Falls Hydro Inc.**  
**Schedule of Rates and Charges**  
**Effective March 1, 2002**

RP-2002-0095  
EB-2002-0104

**Time Periods for Time of Use (Eastern Standard Time)**

Winter: All Hours, October 1 through March 31

Summer: All Hours, April 1 through September 30

Peak: 0700 to 2300 hours (local time) Monday to Friday inclusive, except for public holidays  
including New Year's Day, Good Friday, Victoria Day, Canada Day, Civic Holiday (Toronto)  
Labour Day, Thanksgiving Day, Christmas Day and Boxing Day.

Off Peak: All Other Hours.

**Cost of Power rates valid only until subsection 26(1) of the Electricity Act, 1998 comes into effect.**

**RESIDENTIAL**

Monthly Service Charge	(per month)	\$15.35
Distribution Volumetric Rate	(per kWh)	\$0.0097
Cost of Power Rate	(per kWh)	\$0.0751

**GENERAL SERVICE < 50 KW (Non Time of Use)**

Monthly Service Charge	(per month)	\$46.30
Distribution Volumetric Rate	(per kWh)	\$0.0066
Cost of Power Rate	(per kWh)	\$0.0740

**GENERAL SERVICE > 50 KW (Non Time of Use)**

Monthly Service Charge	(per month)	\$267.30
Distribution Volumetric Rate	(per kW)	\$2.4567
Cost of Power Demand Rate	(per kW)	\$7.0586
Cost of Power Energy Rate	(per kWh)	\$0.0521

**GENERAL SERVICE > 50 KW (Time of Use)**

Monthly Service Charge	(per month)	\$267.30
Distribution Volumetric Rate	(per kW)	\$2.4567
Cost of Power - Winter Peak	(per kW)	\$10.8110
Cost of Power - Summer Peak	(per kW)	\$7.9181
Cost of Power - Winter Peak	(per kWh)	\$0.0715
Cost of Power - Winter Off Peak	(per kWh)	\$0.0426
Cost of Power - Summer Peak	(per kWh)	\$0.0603
Cost of Power - Summer Off Peak	(per kWh)	\$0.0316

**Niagara Falls Hydro Inc.**  
**Schedule of Rates and Charges - Page 2**  
**Effective March 1, 2002**

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**SENTINEL LIGHTS (Non Time of Use)**

Monthly Service Charge	(per connection)	\$1.08
Distribution Volumetric Rate	(per kW)	\$2.8486
Cost of Power Demand Rate	(per kW)	\$18.8871

**STREET LIGHTING (Time of Use)**

Monthly Service Charge	(per connection)	\$0.33
Distribution Volumetric Rate	(per kW)	\$1.1345
Cost of Power - Winter	(per kW)	\$33.0556
Cost of Power - Summer	(per kW)	\$13.0196

**UN-METERED SCATTERED LOADS**

Un-metered scattered loads will be billed as General Service Non-Time of Use (< 50 kW) customers

Monthly Service Charge	(per month)	\$46.30
Distribution Volumetric Rate	(per kWh)	\$0.0066
Cost of Power Rate	(per kWh)	\$0.0740

**SPECIFIC SERVICE CHARGES**

Customer Administration:		
Account Setup Charge		\$9.00
Arrears Certificate		\$12.00
Miscellaneous		
Meter requested by customer (not for billing purposes)		\$5.00
Non-Payment of Account		
Late Payment Charge	(per month)	1.50%
	(per annum)	19.56%
Return Cheque Charge - Actual Bank Charges plus		\$20.00
Collection of Account Charge		\$9.00
Reconnection - during regular working hours		\$20.00
Reconnection - after regular working hours		\$228.16
Disconnection/Reconnection Charge: At Pole		\$101.73
Disconnection/Reconnection After Hours Charge: At Pole		\$428.82

**Niagara Falls Hydro Inc.**  
**Schedule of Rates and Charges - Page 3**  
**Effective March 1, 2002**

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**SPECIFIC SERVICE CHARGES (continued)**

Temporary Service Meter Installation Charge	\$250.00
Supply and Installation of Time of Use Meter	Actual Cost of meter and installation

**Transformer**

Losses: - adjustment shall be made in accordance with Section IV, clause 7 of the Standard Application of Rates until replaced by the Transformer Loss provision in the Rate Handbook.

Allowance for Ownership: (per kW of billing demand)

service at less than 115kV	(per KW)	\$0.60
service at 115kV	(per KW)	\$1.56

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**BY PRIORITY POST**

February 7, 2002

Brian Wilkie  
General Manager, Secretary-Treasurer  
Niagara Falls Hydro Inc.  
7447 Pin Oak Drive  
P.O. Box 120  
Niagara Falls, ON  
L2E 6S2

Dear Mr. Wilkie:

**Re: Niagara Falls Hydro Inc.  
Market Adjusted Rate of Return (MARR) Application  
Board File No. RP-2002-0095/EB-2002-0104**

This will acknowledge receipt on January 28, 2002 of Niagara Falls Hydro Inc.'s Market Adjusted Rate of Return (MARR) Application. The Board has assigned File Number **RP-2002-0095(EB-2002-0104)** to this matter. Please refer to this number in all future correspondence to the Board regarding this matter.

Yours truly,

A handwritten signature in black ink, appearing to read "P. O'Dell", written over a horizontal line.

Peter H. O'Dell  
Assistant Board Secretary