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BY E-MAIL ONLY

May 23, 2012

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge St, 27th Fl
P.O. Box 2319
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Motion to Review and Vary the Board's Decision in EB-2011-0197
Board File No. EB-2012-0212**

Pursuant to the Notice of Motion to Vary and Procedural Order No. 1, dated May 7, 2012, attached is Board staff's Submission and associated appendices on the threshold issue regarding the above proceeding.

Yours truly,

Original Signed By

Sunny Swatch
Analyst, Applications & Regulatory Audit



Board Staff Submission

**Threshold Issue with respect to Thunder Bay Hydro
Electricity Distribution Inc.'s Motion to Review and Vary**

**Thunder Bay Hydro Electricity Distribution Inc.
EB-2012-0212**

May 23, 2012

**Board Staff Submission on Threshold Issue
Thunder Bay Hydro Electricity Distribution Inc. ("TBHE")
Motion to Review and Vary dated April 20, 2012
EB-2012-0212**

INTRODUCTION

On April 20, 2012 TBHE filed a Notice of Motion (the "Motion") for an Order or Orders of the Board for the following:

Reviewing and varying its April 4, 2012 Decision and Order in the EB-2011-0197 proceeding (the "Decision") as follows:

- a) that TBHE be permitted to recover its PILs proxies from October 1, 2001 to April 30, 2002.

The Board's Decision found that TBHE's entitlement to PILs proxies began with the effective date of the Board decision in EB-2002-0035, ie. May 1, 2002. In its Motion TBHE submitted that the Board made three errors in fact and one error in law as summarized below:

- Errors in Fact:
 1. The Board sanctioned methodology for recording PILs proxies in 2001 and 2002 distinguished between March 1, 2002 and other rate implementation dates.
 2. Pre-May 1, 2002 PILs proxies could not be recovered because they represented costs incurred prior to the "effective date" of the 2002 rate order. TBHE indicated that while it is generally true that an effective date signifies the date that costs can start being recorded for recovery, an exception to that rule is the recovery of costs recorded in a deferral account.
 3. TBHE required a deferral account in order to be entitled to its pre-May 1, 2002 PILs proxies. TBHE submitted it had a deferral account - Account 1562 in which its pre-May 1, 2002 PILs proxies have been recorded correctly.
- Error in Law:
 1. TBHE's PILs proxies for fourth quarter of 2001 and the first four months of 2002 were built into its May 1, 2002 rates. TBHE stated that the denial of its

entitlement to PILs proxies prior to May 1, 2002 is effectively a retroactive rate adjustment and that TBHE is effectively being required to return amounts collected through a final rate order.

On May 7, 2012, the Board issued a Notice of Motion to Vary and Procedural Order No.1 (the "Notice"). The Notice stated:

The Board is of the view that the grounds for the Motion expressed by Thunder Bay Hydro appear to be arguments already heard by the Board in either EB-2011-0197 or in the Account 1562 Deferred PILs Combined Proceeding (EB-2008-0381). Therefore, the Board will invite submissions from parties on the threshold question in order to make a determination as to whether or not it will proceed to hear this Motion.¹

Accordingly, the Notice set out due dates for TBHE, intervenors and Board staff to file submissions on the threshold question of whether or not to proceed to hear the Motion.

Threshold Issue

Under Rule 45.01 of the Board's *Rules of Practice and Procedure*, the Board may determine, with or without a hearing, a threshold question of whether the matter should be reviewed before conducting any review on the merits. Section 45.01 of the Board's Rules of Practice and Procedure (the "Rules") provides that:

In respect of a motion brought under Rule 42.01, the Board may determine, with or without a hearing, a threshold question of whether the matter should be reviewed before conducting any review on the merits.

Rule 44.01(a) provides the grounds upon which a motion may be raised with the Board:

Every notice of a motion made under Rule 42.01, in addition to the requirements under Rule 8.02, shall:

- (a) set out the grounds for the motion that raise a question as to the correctness of the order or decision, which grounds may include:

¹ EB-2012-0212, Notice of Motion to Vary and Procedural Order No.1 dated May 7, 2012, p.3

- (i) error in fact;
- (ii) change in circumstances;
- (iii) new facts that have arisen;
- (iv) facts that were not previously placed in evidence in the proceeding and could not have been discovered by reasonable diligence at the time.

The threshold test was articulated in the Board's decision on several motions filed in the *Natural Gas Electricity Interface Review Decision* ("NGEIR Review Decision")².

In the NGEIR Decision, the Board stated that the purpose of the threshold question is to determine whether the grounds put forward by the moving party raised a question as to the correctness of the order or the decision, and whether there was enough substance to the issues raised such that a review based on those issues could result in the Board varying, cancelling or suspending the decision.

In accordance with Procedural Order No.1, TBHE filed with the Board its submission on the threshold question on May 14, 2012.

The following is Board staff's submission on the threshold question.

SUBMISSIONS ON THE THRESHOLD ISSUE OF "IDENTIFIABLE ERROR"

In the event that the Board wishes to consider the facts in determining whether to hear the Motion or not, Board staff offers the following analysis. Board staff refers to attachments related to TBHE's 2001 and 2002 applications and these documents are listed on page 24 of this submission.

Board staff submits that the Board has not erred in fact nor has the Board erred in law, that there is no 'identifiable error' and that therefore, the Motion should be dismissed without a hearing of the merits of the motion.

Inconsistencies in RRR Filings

² Motions to Review the Natural Gas Electricity Interface Review Decision, EB-2006-0332/0338/0340, May 22, 2007, p. 18 and recently applied in EB-2011-0053, April 21, 2011 ("Grey Highlands Decision"), appeal dismissed by Divisional Court (February 23, 2012).

In its original application, TBHE applied to recover \$328,040³. The Board's Decision approved a credit of \$785,990.

In its RRR⁴ filed with the Board, TBHE showed \$0 [zero] for December 31, 2002 and a credit balance of \$1,666,723 for December 31, 2011 in Account 1562. The 2011 balance was filed by TBHE at the end of February 2012. In another RRR balance filing made near the end of April 2012, TBHE reported a credit balance in Account 1562 of \$706,546. The balance reported for December 31, 2011 (as updated) does not match TBHE's original application, the Board's Decision or the balances stated in this Motion.

Table 1

Thunder Bay RRR - Account 1562 Balances			
2002	0	2007	-1,563,832
2003	-498,678	2008	-1,619,277
2004	-616,223	2009	-1,635,123
2005	-838,667	2010	-1,646,222
2006	-1,498,641	2011	-1,666,723
Updated RRR filing		2011	-706,546

Relevance of TBHE's Historical Rate Applications

Board staff has attached correspondence to this submission dated September 14, 2001⁵ which was submitted by TBHE in its 2001 rate application. This letter was referenced in the Board's decision⁶ issued on November 8, 2001. This correspondence describes some of the rate mitigation measures taken by the management that was responsible for utility operations at the time. In other correspondence sent to the Board as part of the 2001 application, the shareholder and its management requested to

3 EB-2011-0197, Reply Submission Dated February 23, 2012, PDF p.4.

4 OEB's Reporting and Record Keeping Requirements filed quarterly and annually.

5 Attachment 3, TBHE, letter to Board, September 10, 2001, received on September 14, 2001.

6 Attachment 1, RP-2000-0055/EB-2000-0497/EB-2001-0163, Decision, page 2.

operate as a not for profit corporation at the level of the return that the utility earned in 1999.⁷

TBHE stated that it expected to collect PILs from customers on a flow through basis in order to maintain the same level of return as in 1999. Management wanted the rate changes to be revenue neutral. Board staff submits that TBHE expected to recover only what it paid the government in PILs.⁸

Flow through taxes refer to a concept that is different from the Board's Account 1562 deferred PILs true-up methodology which only trues up some components of the difference between actual PILs assessed and the proxy allowed in distribution rates by the Board.*[See pages 9-13 in this submission.]*

TBHE's current management has applied the concepts in the Board's regulatory PILs true-up methodology in calculating the amount of \$328,040 they wish to recover from ratepayers without addressing the impact (if any) of delayed implementation.

It is Board staff's view that TBHE's management who ran the company from 2001-2005 expected to recover only the assessed amount of \$3,850,663 on a flow through basis in order to be revenue neutral. TBHE collected \$6,992,594 from its customers during the period covered by the Account 1562 methodology. The difference is an over-collection of \$3,141,931 as shown in the table below.

Table 2

Thunder Bay	2001	2002	2003	2004	2005	2006	Total
Notices of Assessment							
Corporate minimum tax		44,559					44,559
Ontario capital tax	57,483	234,919	241,158	250,838	236,667		1,021,065
Ontario income tax			168,593	204,765	499,447		872,805
Large corporation tax	40,276	142,458	126,290	39,799	16,852		365,675

7 Attachment 2, TBHE's letter dated December 8 (11), 2000; Attachment 4, responses to Board staff's interrogatories April 25 (27), 2001, #2, #3; Attachment 5, responses to Board staff's interrogatories June 27 (29), 2001, #3, #4.

8 Attachment 3, TBHE, letter to Board, September 10, 2001, received on September 14, 2001.

Federal income tax			411,297	323,528	811,734		1,546,559
Taxes Assessed (1)	97,759	421,936	947,338	818,930	1,564,700		3,850,663
Billed to Customers (2)	1,327,992	2,036,248	1,354,169	1,511,915	762,270		6,992,594
Sources: 1. Notices of assessment filed with tax return evidence 2. Appendix D_TBHEDI_PILs recoveries calculation_20120130_xls_IRR BS_20120131.XLS							

Having reviewed TBHE management's correspondence from the period 2001-2005, one could argue that the original requests of TBHE's management and the economic intent of its application choices should be respected. By so doing, the Board would have to allow a refund to customers of the over-collection of \$3,141,931.

Board staff submits that generating this level of over-collections (\$3,141,931) was not part of management's or the City's intentions as demonstrated in its applications and correspondence.

The following interrogatories and TBHE's responses were taken from the 2001 proceeding [RP-2000-0055/EB-2000-0497/EB-2001-0163]. Response to Board Staff Interrogatory List #2, June 27, 2001:

Question 3:

Please provide the Utility's decision on Question 5 of Board Staff Interrogatory List #1.

For your reference, Question 5 is as follows:

The Utility has indicated in the Manager's Summary the City of Thunder Bay (the shareholder) requested Thunder Bay Hydro to operate as a "Not For Profit" corporation. Consequently, the Utility has no increase in rates due to the MARR (i.e. 1/3 of the amount) in the Year 2001. The Utility has indicated that it recognizes that this amount will not be available for recovery in future years. Please confirm whether or not the Utility plans to increase rates in the Year 2002 (i.e. 1/3 of the MARR) and Year 2003 (i.e. 1/3 of the MARR) based on the remaining 2/3 of the MARR. And if not,

confirm the Utility understands that this amount(s) also will be foregone and may not be available for recovery in future years.

Response:

It is the intention of the shareholder to have the utility set its rate to maintain its current status. Rate of return is not to be a motivating factor. The utility has received direction from the shareholder to maintain the rate of return it required in 1999. Please find attached a RUD model that reflects this direction.

Question 4:

Please confirm that the Utility has selected a Target Return on Equity of 1.308 percent and a Debt Rate of 1.308 percent in order to maintain its historic rate of return based on 1999 financial results.

Response:

We confirm that the Utility has selected a Target Return on Equity of 1.308 percent and a Debt Rate of 1.308 percent in order to maintain its historic rate of return based on 1999 results.

TBHE applied to the Board for 2001 rates that included a very low ROE of 1.31% and a delay in implementation of this low ROE until market opening. TBHE did not indicate that it would suffer economic hardship or damage its economic viability while maintaining a not-for-profit business approach for the foreseeable future.

The management at the time did not want to burden ratepayers beyond the rates necessary to maintain the 1999 not-for-profit ROE. Board staff submits that current management appears now to want to collect from current ratepayers the costs that the prior management decided to avoid when it asked for unbundled rates including PILs to be effective at market opening of May 1, 2002.

Board staff submits that the current decision of the Board in EB-2011-0197 is consistent with the 2001 and 2002 decisions of the Board, and the new finding on the treatment of delayed implementation is not only consistent with the manner in which the actual rates were applied, but also consistent with the wishes of the shareholder and the management of TBHE in the historic period.

Board staff submits that the Board has not erred in fact. The Board has chosen not to change or to reinterpret the facts that are clearly on the record of TBHE's prior proceedings and must be read as written, and in the context of the time that the Board's two decisions were issued.

Notwithstanding TBHE's own assertions at the time, Board staff understands that a total true up of the amounts collected from ratepayers and the amounts actually paid in taxes to the government was not the intent of the Account 1562 methodology and Board staff would not support such an outcome. Board staff takes this position despite the fact that it would appear that TBHE itself may have been suggesting that this may be a reasonable view to take on the appropriate balance in Account 1562 as noted in the excerpt provided by TBHE of an EDA submission in the Combined Proceeding.⁹

However, Board staff does support the balance approved in the original 2012 IRM Decision based on the existing methodology as it was applied coupled with a new finding on one issue (that of delayed implementation) that the Board had not previously considered.

No Error in Fact #1

Combined Proceeding (EB-2008-0381)

In 2001, the Board approved a regulatory PILs tax proxy approach for rate applications coupled with a true-up mechanism filed under the RRR to account for changes in tax legislation and rules, and to true-up between certain proxy amounts used to set rates and the actual amounts. The variances resulting from the true-up were tracked in Account 1562 for the period 2001 through April 30, 2006.

On November 28, 2008, pursuant to sections 78, 19 (4) and 21 (5) of the *Ontario Energy Board Act, 1998*, the Ontario Energy Board commenced a combined proceeding on its own motion to determine the accuracy of the final account balances with respect to Account 1562 Deferred Payments in Lieu of Taxes ("PILs") (for the period October 1, 2001 to April 30, 2006) for certain electricity distributors that filed 2008 and 2009 distribution rate applications. The Board subsequently determined that ENWIN Utilities Ltd. ("ENWIN"), Halton Hills Hydro Inc. ("Halton Hills") and Barrie Hydro Distribution Inc.

⁹ EB-2012-0212, TBHE Submission on threshold question, May 14, 2012, Para 6

(“Barrie”) should provide their specific evidence on the disposition of Account 1562 (collectively, the “Applicants”). The Board had announced its intention to hold such a proceeding in a letter to all distributors issued on March 3, 2008 and at that time assigned file number EB-2007-0820. File number EB-2008-0381 was assigned to this combined proceeding when it commenced on November 28, 2008.

In the Board staff discussion paper issued in August 2008, the issue of delayed implementation was raised.¹⁰ It did not appear on the issues list for EB-2008-0381 (hereafter referred to as the “Combined Proceeding”) because none of the three applicants had this specific set of facts. The three applicants unbundled their rates in 2001 in accordance with the Board’s instructions and directives from the Minister, and implemented those unbundled rates.

In its May 14 submission, TBHE makes the point that there is no distinction between the March 1, 2002 and May 1, 2002 dates, otherwise why would Board staff have raised this issue in the Combined Proceeding?¹¹ Board staff does not understand TBHE’s logic and can only say that Board staff raised this issue in the Combined Proceeding because it was an outstanding issue at the time, and as it turned out, remained outstanding until a Board Panel turned its mind to the matter in TBHE’s 2012 IRM application.

TBHE requested to delay implementation of unbundled rates which included PILs proxy expense until market opening as a rate mitigation measure supported by the City and by the distributor’s management at the time. TBHE’s stated intention was to operate as a not-for-profit company earning the same return as it did in 1999.

APH Article 220 was revised on December 20, 2001 and provided minimum guidance for the use of Account 1562. FAQ April 2003 provided examples of the accounting entries related to Account 1562 Deferred PILs. The year selected for the example was the twelve month complete year of 2003. FAQ April 2003 did not deal with the complexities associated with periods of less than twelve months.

10 OEB Staff Discussion Paper Account 1562 – Deferred Payments in Lieu of Taxes/ Appendix B/ Part I/ #1 Date for the initial entries into the PILs 1562 account.

11 Paragraph 9, TBHE Submission on the threshold question, May 14, 012

The FAQ April 2003 guideline was issued more than one year after the Board's second decision approving TBHE's voluntary requests for unbundled rates including PILs to be effective coincident with market opening on May 1, 2002.

The three applicants in the Combined Proceeding did not ask to delay 2001 or 2002 implementation of unbundled rates until market opening. Their specific regulatory and PILs tax facts were different, and the Board addressed this in its decision:

The Board cannot adjust the PILs amount included in any final rates – during or after the rate freeze period. The Board is prohibited from changing rates retroactively or retrospectively. No parties disputed this limitation on the Board's jurisdiction.

However, the Board finds that it can review the balances in Account 1562 across the entire time period, including during the Bill 210 period, and dispose of those balances. Some parties have described this as a prudence review. It is not a prudence review in the sense of determining whether expenditures were prudently incurred; rather it is a prudence review in the sense of ensuring the accuracy of the accounts and whether the amounts placed in the accounts were calculated in a manner consistent with the Board's methodology as it was established at the time.

There was no significant disagreement in the submissions on this point either. It is clear from the legislation that the account was permitted to be continued, and reviewing the balance for accuracy and prudence is a necessary part of any disposition determination.¹²

There may be differences now as to the interpretation of the methodology at various points in time. The EDA and CLD portray **the main purpose of the account as being to record the difference between what was included in rates and what was collected from ratepayers through rates.**

[Emphasis added.] There is some acknowledgement by those parties that the **account was also intended for some level of true-up between amounts included in rates and amounts actually payable.** *[Emphasis added.]* To the extent there is some true up component to the account, the

¹² EB-2008-0381, Decision with Reasons, December 18, 2009, page 4.

resulting balances are not an attempt to change the rates underlying the final rate orders; the balances appropriately reflect the purpose and objective of the account as it was established at the time.

The parties may well differ in their interpretations of the methodology but the Board will decide those questions on the basis of the facts and the underlying documents. *[Emphasis added]* The Board will not enter into an enquiry as to what the methodology should have been but rather, will determine, where necessary, what the methodology was and what the appropriate application of the methodology should have been.¹³

In Procedural Order No. 8 of the Combined Proceeding,¹⁴ the Board made the following finding:

On Issues Day before the Board the CLD, EnWin and SEC made submissions on how the Board should approach its review of the methodology, ratemaking principles and the evidence of the three applicants in this proceeding. The Board finds that its Decision of December 18th, and the discussion contained in the hearing transcript for Issues Day, provide the full extent of the scope of this proceeding that the Board considers appropriate at this time.

In Procedural Order No. 8 of the Combined Proceeding,¹⁵ the Board included language at the top of the approved final issues list the Board released following Issues Day:

In the Board's Decision in this proceeding, which was issued December 18, 2009, the Board established certain parameters for this proceeding. Among those parameters, the Board stated: "The Board will not enter into an enquiry as to what the methodology should have been but rather, will determine, where necessary, what the methodology was and what the appropriate application of the methodology should have been." Accordingly, the individual issues below are to be interpreted in a manner that exclusively furthers the Board's determination as set out in the Decision.

13 EB-2008-0381, Decision with Reasons, December 18, 2009, pages 6-7.

14 EB-2008-0381, Procedural Order No. 8, February 17, 2010, page 3, para 5.

15 EB-2008-0381, Procedural Order No. 8, Final Issues List, February 17, 2010.

Further, the issues below only address the issues relevant to the three named applicants; Account 1562 Deferred PILs issues that are relevant to the disposition of the account for other LDCs, but which are not relevant to the three named applicants, are not within the scope of this proceeding. *[Emphasis added.]*

In the transcript of Issues Day before the Board, Presiding Member Ken Quesnelle made the following statements:

What we don't want to do now, in fairness to the applicants that are before the Board, is slow down these proceedings in testing hypothetical scenarios, in tweaking the existing evidence to a point where it might suit someone else who is outside of this proceeding and to test hypotheticals.¹⁶

We have come this far and we want to concentrate on the applicants that are before us and the evidence that is here.¹⁷ *[Emphasis added.]*

But we will be resisting the stretching of the current applicants' evidence to consider all permutations of scenarios that could occur.¹⁸

Submission

Board staff submits that the above quotations from the Combined Proceeding demonstrate that the Board did not opine on the methodology for recording PILs proxies in 2001 and 2002 for non-March 1, 2002 rate implementation dates.

In its submission on the threshold question, TBHE stated:

The Board's decision in the IRM Proceeding, mistakenly believed that the methodology in place at the relevant time treated March 1, 2002 and post-March 1, 2002 effective rate dates differently. This is not the case...It is clear that the Board sanctioned methodology for recording PILs proxies in

16 Decision on Issues List, Transcript, Issues Day, February 9, 2010, Page 32, lines 21-26

17 Decision on Issues List, Transcript, Issues Day, February 9, 2010, Page 33, lines 10-12.

18 Decision on Issues List, Transcript, Issues Day, February 9, 2010, Page 34, lines 10-12.

2001 and 2002 did not distinguish between March 1, 2002 and non-March 1, 2002 effective rates.¹⁹

In the Combined Proceeding, the Board stated that it was not considering issues that were not relevant to the applicants of that proceeding. All three applicants in the Combined Proceeding had March 1, 2002 implementation dates.

It is Board staff's view that the treatment of delayed implementation was not addressed as part of the original methodology and that the Board opined on it for the first time in TBHE's 2012 IRM application. In Board staff's view, this means that TBHE is actually arguing with the outcome of the Panel's interpretation of a scenario that was not explicitly considered under the Account 1562 methodology at the time. Board staff notes that this is not sufficient grounds for a motion to review and vary.

No Error in Fact # 2

TBHE submitted that an error in fact was made by the Board in finding that pre-May 1, 2002 PILs proxies could not be recovered because they represented costs incurred prior to the effective date of the 2002 rate order. TBHE argued that

...while it is generally true that an effective date signifies the date that costs can start being recorded for recovery, an exception to that rule is the recovery of costs recorded in a deferral account.²⁰

Submission

As mentioned throughout this submission, TBHE requested that the effective date of its rates be delayed to May 1, 2002. Board staff notes that delaying the effective date of its unbundled rates to May 1, 2002 also delayed all components of the unbundled rates including PILs.

As TBHE correctly identified in the above quotation, generally, the effective date of an account signifies the date that costs start being recorded in that account. In Board staff's view this applies to Account 1562. No exception to this general rule of the effective date being the date from which costs can be recorded was given by the Board

¹⁹ EB-2012-0212, TBHE Submission dated May 14, 2012, para. 8

²⁰ EB-2012-0212, TBHE Submission dated May 14, 2012, para. 14

with respect to Account 1562 in either TBHE's 2002 rates application or subsequent decisions.

This issue in relation to Account 1562 was first considered by the Board in its decision on TBHE's 2012 IRM application where it stated:

The Board notes that the effective date for the 2002 rates including the 2001 and 2002 proxies was delayed to May 1, 2002 at the request of Thunder Bay. The Board acknowledges that Thunder Bay had a PILs liability for the period October 1, 2001 to April 31, 2002. However, the Board is of the view that the entitlement to PILs in rates commenced with the effective date for rates, not the date taxation commenced.²¹

Board staff submits that the Board did not err in fact in finding that TBHE should not be permitted to record costs in Account 1562 prior to the effective date of the rates as there were no previous findings to state otherwise. Further, TBHE's new unbundled rates that did become effective on May 1, 2002, contained the full amounts of the fourth quarter 2001 PILs proxy of \$576,479 and the 2002 test year amount of \$1,389,804 and were recovered in TBHE's rate year of May 1, 2002 to April 30, 2003.

No Error in Fact # 3

TBHE indicated that another error in fact made by the Board was that TBHE required a deferral account in order to be entitled to its pre-May 1, 2002 PILs proxies. TBHE stated:

Perhaps the Board was contemplating the absence of a deferral account to record lost revenues resulting from delayed rate implementation from March 1, 2002 (the standard effective date for rates) to May 1, 2002 (the effective date of TBHE's rates). If this were the case, the Board's decision would also be erroneous since such a deferral account would have only covered lost revenues for two months (March and April of 2002), so the absence of such a deferral account would have resulted in TBHE losing two months of PILs proxies and not seven months which was the result of the Board's decision.

²¹ EB-2011-0197, Decision and Order dated April 4, 2012, p11

Submission

The Board issued two decisions in 2001 and in 2002 granting TBHE's requests to mitigate rates through maintaining a return consistent with its 1999 ROE, receiving PILs expense on a flow through basis and delaying any increase in rates until market opening which became May 1, 2002. The Board's current decision upholds the prior decisions of the Board and management's request of the time period to relieve the burden on ratepayers.

The 2001 fourth quarter deferral account amount of \$576,479 and the 2002 test year amount of \$1,389,804 were both included in rates and were recovered in TBHE's rate year that started on May 1, 2002. This is the tax expense that TBHE is entitled to recover. Rate years, calendar years, and short years have often caused confusion. Board staff submits that Board decisions outrank Board guidelines in the hierarchy, and distributor-specific facts and evidence outweigh generic considerations.

In its decision in the Combined Proceeding the Board addressed the issue as follows:

The CLD submitted that the 2001 Board approved PILs amounts were approved in final orders for 2002 which were frozen by Bill 210; and the Board, therefore, does not have the jurisdiction to retroactively deny recovery of those amounts, although the Board may dispose of the net differences between the deferred PILs amounts approved in rates and the amounts billed to customers for the period 2002-2004.

In support of its submission the CLD relied on the Board staff discussion paper which described the purpose of account 1562 as "designed to track and record the variances resulting from the difference between the Board-approved PILs amount and the amount of actual billings that relate to the recovery of PILs."

The CLD stated that the 2002 rate orders, which included an allowance for the 2001 PILs amounts, were final in nature and are not open to revision until replaced by a subsequent rate order. The CLD referred to several cases in support of the well established rule against retroactive rate-making.

The CLD's submission then went on to discuss the relevance of deferral accounts which are distinct from final rates in that they do not vary the original approved rate order. The CLD relied on the Supreme Court of Canada decision in *Bell Canada v. Bell Aliant Regional Communications* which involved a regulatory scheme that set rates and captured in an earnings-sharing deferral account the difference between the set rates and amounts actually collected.

In conclusion, the CLD submitted that an account that tracks differences in amounts approved in rates and actual amounts recovered from customers cannot be used to change amounts that were approved in base distribution rates. It argued that the 2001 PILs amounts were collected under final rate orders and they cannot be retroactively adjusted, although the Board may dispose of the net differences between the deferred PILs amounts approved in rates and the amounts billed to customers from 2002-2004.²²

The Board wrote these findings in the decision:

The 2001 PILs, also referred to as the 2001 PILS 'proxy', were included in 2002 rates that were collected by distributors beyond the 2002 rate year due to the rate freeze imposed by Bill 210 in 2002.

The 2001 PILs rate components were not identified in the tariff sheet as separate rate riders having a sunset expiration date but rather formed a component of the total distribution rate structure.

In its instructions, the Board required the 2001 PILs proxy included in rates, and amounts collected from (or billed to) customers for the 2001 PILs proxy rate components, to be recorded in the PILs 1562 deferral account. The function of the account was to determine the difference between a dollar amount (the PILS proxy), that formed part of the approved rate, and a dollar amount that was actually collected for that purpose. No departure from this guidance was implied or expressed in subsequent Board directions. The 2001 PILs proxy remained a portion of the amount to be collected for as long as it remained in rates. The variances derived by following the various

²² EB-2008-0381, Decision and Order, pages 19-20.

forms of guidance and instructions were also to be posted to the PILs 1562 deferral account.

The SEC contention that the Board methodology required the 2001 PILs proxy to be included in the true-up calculations thus reducing the amounts now recoverable from the ratepayers is simply not supported by the instructions and guidance provided. The Applicants were required to account for both the 2001 PILs proxy components included in rates and the PILs actually collected from customers until the rates were changed in 2004. There was no methodology in place that would have had the effect of backing out a portion of the approved rate as part of the true-up calculation.

The Board considers the methodology that was in place at the time to be one that had the functional objective of tracking, among other things, the variance between the 2001 PILS proxy in rates (and therefore approved on an ongoing basis), and the 2001 PILs collected from (or billed to) customers. The Board's assessment of the appropriate account balances is therefore based on each Applicant's application of this methodology.²³

Board staff submits that the current Board decision is consistent with the 2001 and 2002 decisions in TBHE's applications, and with the decision in the Combined Proceeding. Board staff submits that the Board has not erred in fact. The above excerpts demonstrate that the combination of TBHE's intentions in its rate filings and the fact that TBHE recovered its PILs proxies that it was entitled to recover for the subject period, support the fact that the Board did not err in assessing the manner in which Account 1562 was used to determine the final balance approved for TBHE.

No Errors in Law

Board staff is of the view that the Board did not err in law because TBHE's 2002 distribution rates were only changed in 2004 by leave of the Minister and by application for a rate change by TBHE. While these 2004 rates were declared interim, in 2005 the Board made the changed rates final as part of the 2005 application process to include the third tranche of MARR, PILs and regulatory asset recoveries.

²³ EB-2008-0381, Decision and Order, pages 23-24.

In this proceeding the Board is not approving a historical balance in Account 1562 that was recorded in the distributor's general ledger at each year end date. Each distributor has to recalculate a theoretical principal balance and related interest carrying charges in Account 1562 by following guidance and Board decisions.

Board staff submits that the issue concerning when to start recognizing the entitlement to the PILs proxies in the Account 1562 regulatory PILs methodology is a technical record-keeping matter subject to the Board's interpretation rather than an issue of law. During the Combined Proceeding, the Board stated that it would examine the application of the methodology based on the facts of each distributor. *[See pages 9-13 in this submission.]*

Background

TBHE applied for bundled and unbundled rates in its 2001 application [RP-2000-0055/EB-2000-0497/EB-2001-0163]. On September 14, 2001, the Board received a letter²⁴ from TBHE requesting that it implement the new unbundled rates on the date that section 26(1) of the *Electricity Act, 1998*, S.O. 1998, c.15, (Schedule A) came into force. At the time, this was known in the industry as market opening. TBHE selected an ROE of 1.31% and a debt rate of 1.31% as part of its rate minimization strategy to shelter its ratepayers. Bundled rates did not include PILs proxy expense. The Board approved the requests for bundled and unbundled rates on November 8, 2001.

On December 18, 2001 the Premier confirmed that the market would open on May 1, 2002.²⁵

TBHE filed an application on January 30, 2002, and a revised application on February 21, 2002 [RP-2002-0026/EB-2002-0035], requesting unbundled rates including PILs to become effective on May 1, 2002, the date of market opening under section 26(1). The Board in its Decision dated April 5, 2002 granted TBHE the May 1, 2002 effective date.²⁶

24 Attachment 3, TBHE, letter to Board, September 10, 2001, received on September 14, 2001.

25 http://www.ontarioenergyboard.ca/documents/cases/market_readiness/letter_180102.pdf

26 Attachment 6, RP-2002-0026/EB-2002-0035, Decision, pages 6-7.

TBHE filed an application on November 12, 2002 to correct errors in the street lighting rates that it requested in its earlier 2002 application and had been approved by the Board with effect from May 1, 2002. Bill 210 was introduced on November 11, 2002 and all rate applications in process at that time were discontinued. The Board sent a letter to TBHE on January 17, 2003 stating that its application had been discontinued by Bill 210 and directed TBHE to obtain the Minister of Energy's approval in order to make a new application.

On February 9, 2004 TBHE filed an application [RP-2004-0098/EB-2004-0084] to receive recovery of 25% of regulatory assets and to make rate corrections for errors in the prior application. In its decision, the Board refused to process the rate corrections without the Minister's leave since Bill 210 was still in force. Interim recovery of regulatory assets was allowed. In its manager's summary, TBHE stated that it decided to charge the city lower unapproved rates for street lighting due to the magnitude of the error in its 2002 application. The Board did not approve these lower rates.

The 2012 IRM Application

As a part of the 2012 IRM application [EB-2011-0197], TBHE applied to dispose of Account 1562. In its pre-filed evidence TBHE recorded its 2001 PILs proxy entitlement starting on October 1, 2001 and the 2002 PILs proxy on January 1, 2002.

Board staff suggested in interrogatories that the PILs proxy for 2001 and 2002 should be pro-rated for the period from May 1, 2002 (the effective date for 2002 rates) to March 31, 2004, or 23 months. TBHE responded that it did not consider Board staff's PILs proxy calculation to fairly reflect the 2002 Board decision and that TBHE believes that its entitlement to the 2001 PILs proxy should start on October 1, 2001 and its entitlement to the 2002 PILs proxy should start on January 1, 2002, as originally filed.

In its reply submission, TBHE acknowledged that it did file an amended application on February 21, 2002 for its rates to become effective for May 1, 2002; however, this request never indicated that TBHE was forgoing any entitlement to PILs funding.²⁷

In the 2012 IRM application, Board staff was of the view that evidence from TBHE's 2001 rates proceeding, RP-2000-0055/EB-2000-0497/EB-2001-0163 and from its 2002

²⁷ TBHE Reply, page 3, Issue #1, paragraph 2

evidence filed in RP-2002-0026/EB-2002-0035 supports the facts that TBHE understood that delaying the effective date of its unbundled rates to May 1, 2002 would also delay all components of the unbundled rates including PILs from taking effect.

Form of the 2002 Rate Application Filed by TBHE

The Board uses many regulatory techniques to determine costs that it will allow to be incorporated into distribution rates. In August 2001, the Board approved a deferral account to be used to record the PILs impact of section 93 of the *Electricity Act* coming into force on October 1, 2001. At the time the Board approved the use of this account it had not issued instructions for the use of the account.

In December 2001, the Board issued filing instructions for distributors to submit 2002 applications for rate adjustments to take effect on March 1, 2002. TBHE filed an application for unbundled rates to be effective on May 1, 2002 consisting of an Excel rate adjustment model ("RAM"), Excel PILs proxy models for 2001 and 2002, a manager's summary and other relevant documents. The RAM and other models from the time period 2001 to 2006 were filed in the docket of EB-2011-0197, the 2012 IRM application.

The elements of the RAM where rates were increased or decreased are as follows.

- Sheet 1: 2001 OEB approved rate schedule.
- Sheet 2: 2002 rate schedule including the second year incentive adjustment consisting of Input Price Index 0.4% minus the productivity Factor 1.5% which resulted in an adjustment factor of -1.1%, or 98.9% of current rates at the time.
- Sheet 3: calculating the rate increase of adding the 2002 incremental market adjusted revenue requirement (MARR) (also known as the second tranche of MARR).
- **Sheet 6:** 2001 PILs deferral account estimate adder calculation.
This sheet calculated the fixed and variable portion of the total rate that related to the dollar amount of PILs proxy expense for the fourth quarter 2001 of \$576,479. This dollar value of \$576,479 is the theoretical principal amount in account 1562 as at December 31, 2001 and it was recovered by including the value in the rate order. The dollar amount of this deferred PILs balance was allocated to the classes using distribution revenue shares by class. This allocated cost was recovered through a monthly fixed charge and by a variable charge expressed as

\$/kWh or \$/kW depending on the class billing determinants. This portion of the total rate was called a PILs rate sliver.

- **Sheet 8: 2002 PILs proxy estimate adder calculation.**

This sheet calculated the fixed and variable portion of the total rate that related to the dollar amount of PILs proxy expense for the whole test year 2002 (January to December) of \$1,389,804. The dollar amount of the 2002 test year PILs proxy expense was allocated to the classes using distribution revenue shares by class. This allocated test year cost was recovered in the rate year that began on May 1, 2002 through a monthly fixed charge and by a variable charge expressed as \$/kWh or \$/kW depending on the class billing determinants. This portion of the total rate was called a PILs rate sliver.

- Sheet 11: Z-factor adder calculation

The applicant could have applied for any Z-factors. The Z-factor rate slivers were calculated as described above for PILs.

- Sheet 13: Transition cost adder calculation

The applicant could have applied for interim recovery of costs incurred to transition to unbundled rates and market opening. The transition cost rate slivers were calculated as described above for PILs.

- Sheet 16: Schedule of rates and charges.

This rate schedule included the approved unbundled rates plus or minus all of the individual adjustments listed above. Each component of the rate increase was isolated for future rate adjustment and accounting purposes.

On April 5, 2002 the Board issued its 2002 decision for TBHE with the approved rate schedule (tariff sheet) which included the 2001 and 2002 PILs proxies. The rates were listed as a monthly fixed charge per customer and volumetric rates to be charged on demand (kW) or energy (kWh) usage. Specific service charges were also approved. TBHE implemented, or started billing, these rates on consumption after April 30, 2002 as the distributor had requested.

In the current proceeding evidence, TBHE filed a PILs continuity schedule for the period October 1, 2001 through April 30, 2012. The theoretical closing of Account 1562 was April 30, 2006, the day before the Board changed to a new rate adjustment regime on May 1, 2006. From a practical point of view, this account still remains open and will be kept open until all distributors receive their decisions on the disposition of Account 1562 and make the necessary accounting entries. TBHE's PILs continuity schedule shows

PILs entitlements from October 1, 2001, recoveries from customers starting in May 2002, annual adjustments calculated in the SIMPIL models and interest calculated on a simple interest basis.

Submission

Recoveries from customers are calculated using the PILs rate slivers and billing determinants. These are the PILs components of the total unbundled rates approved by the Board in 2002. Board staff submits that the Board in the current case has not reduced the rates implemented by TBHE in 2002. The only time the Board changed TBHE's 2002 rates was in 2004 when the Board ordered TBHE's interim changed rates to be implemented on April 1, 2004 with an effective date of March 1, 2004 with the leave of the Minister of Energy, and after processing an application filed by TBHE. The Board has not reduced the amount of money TBHE has calculated as what it billed its customers for PILs from May 1, 2002 through April 30, 2006.

Board staff submits that the Board has not erred in law. The Board has not changed the 2002 rates, other than by a rate order issued in 2004, as discussed above. The Board has not changed the amount that TBHE has calculated as its recoveries from customers which is in fact the cash flow directly related to the 2001 and 2002 PILs proxies.

What the Board did do, is determine whether or not the SIMPIL methodology for trueing up Account 1562 required a further finding regarding the treatment of delayed implementation. The Board decided that was the case and it did so by establishing the principle of consistency between the manner in which the reconciliation of the SIMPIL true up should be calculated and the manner in which the rates were actually charged.

Board staff submits that the Board's current decision upholds the prior decisions of the Board and management's request of the 2001-2002 time period to relieve the burden on ratepayers. Board staff submits that the Board has not erred in fact or law and the Board should dismiss the Motion.

All of which is respectfully submitted.

ATTACHMENTS

1. *Ontario Energy Board* (November 8, 2001), Decision RP-2000-0055 / EB-2000-0497 / EB-2001-0163 (*"Thunder Bay 2001 Decision"*)
2. Letter from Thunder Bay Hydro to OEB, December 8, 2000 ("December 2000 Letter")
3. Letter from Thunder Bay Hydro to OEB, September 10, 2001 ("September 14, 2001 Letter")
4. Thunder Bay Hydro Interrogatory Responses in RP-2000-0055 / EB-2000-0497, filed April 25, 2001 ("April 2001 IRRs")
5. Thunder Bay Hydro Interrogatory Responses in RP-2000-0055 / EB-2000-0497, filed June 27, 2001 ("June 2001 IRRs")
6. *Ontario Energy Board* (April 5, 2002), Decision RP-2002-0026 / EB-2002-0035 (*"Thunder Bay 2002 Decision"*)

Attachment 1

Ontario Energy
Board
P.O. Box 2319
26th. Floor
2300 Yonge Street
Toronto ON M4P 1E4
Telephone: 416- 481-1967
Facsimile: 416- 440-7656
Toll free: 1-888-632-6273

Commission de l'Énergie
de l'Ontario
C.P. 2319
26e étage
2300, rue Yonge
Toronto ON M4P 1E4
Téléphone; 416- 481-1967
Télécopieur: 416- 440-7656
Numéro sans frais: 1-888-632-6273



BY PRIORITY POST

November 8, 2001

Mr. Larry Hebert
General Manager & Secretary
Thunder Bay Hydro Electricity Distribution Inc.
34 Cumberland St. N.
Thunder Bay, Ontario
P7A 4L4

Dear Mr. Hebert:

**Re: Thunder Bay Hydro Electricity Distribution Inc.
Electricity Rate Change
Board File No. RP-2000-0055/EB-2000-0497/EB-2001-0163**

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

Yours truly,

Peter H. O'Dell
Assistant Board Secretary

Encl.



RP-2000-0055
EB-2000-0497
EB-2001-0163

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 Thunder Bay Hydro Electricity Distribution Inc. for an order or orders approving or fixing just and reasonable rates.

BEFORE: Sally Zerker
Presiding Member

Bob Betts
Member

Paul Sommerville
Member

DECISION WITH REASONS AND ORDER

Thunder Bay Hydro Electricity Distribution Inc. ("Thunder Bay Hydro" or the "Applicant"), filed an Application (the "Application") dated December 13, 2000 with the Ontario Energy Board (the "Board"), for an order or orders approving or fixing just and reasonable rates for the distribution of electricity.

Under the direction of the Board, Thunder Bay Hydro published a Notice of Application and Notice of Written Hearing in local newspapers. One intervention was received.

The Board issued Procedural Order #1 in this matter on June 26, 2001. Intervenors were requested to file any submissions by July 4 and any applicant responses were due by July 12. There were no submissions.

On May 30, 2001, the Applicant filed its request for approval for new rates reflecting the June 1, 2001 cost of power increase using the Standard Method of Implementation. The Board approved an increase of \$0.00735 per kWh to be added to the energy and related rates of Thunder Bay Hydro, and indicated this change to the rate schedule would be issued in due course.

Thunder Bay Hydro has elected a Target Rate of Return on Common Equity of 1.31% for the three years of the PBR plan, a rate of return on common equity based approximately on its 1999 rate of return on equity (\$868,952), exclusive of Payments in Lieu of Taxes. The Application also states that for a typical residential customer consuming 1,000 kWh per month, the increase in their total bill under rate restructuring is 0.9%, and for a typical general service customer consuming 2,000 kWh per month, the increase in their total bill under rate restructuring is 0.1%. Due to rate restructuring, individual customer bill impacts may be higher or lower depending on a customer's electricity consumption.

On September 14, 2001, the Board received a letter from Thunder Bay Hydro requesting that it implement the new unbundled rates on the date that ss 26(1) of the *Electricity Act, 1998*, S.O. 1998, c.15, (Schedule A) comes into force.

Copies of the Application, including the evidence filed in this proceeding, are available for review at the Board's offices.

Board Findings

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.

The Board finds that Thunder Bay Hydro's election of a 1.31% Target Rate of Return on Common Equity, and its plan for mitigation of the impact of that election

on customers, are in conformity with the *Electricity Distribution Rate Handbook* and the RP-2000-0069 Decision, and are acceptable.

Thunder Bay Hydro proposed to maintain the current 5% one-time late payment charge. The Board expects Thunder Bay Hydro to review its late payment charge policy and apply to the Board for appropriate revisions with the first annual rate adjustment to be filed in February, 2002.

The Board is satisfied that there are no other significant deviations from the *Electricity Distribution Rate Handbook*.

The Board finds that the rates applied for are just and reasonable.

By letter dated February 28, 2001, the Board indicated that the rates set out in the Transitional Distribution Rate Order are declared interim as of March 1, 2001 for all licensed distributors who filed submissions for unbundled distribution rates on or before February 28, 2001. Thunder Bay Hydro proposes to implement the rates set out in Appendix "A" of this Order, which include the cost of power increase effective June 1, 2001, through to one day prior to when ss 26(1) of the *Electricity Act, 1998*, S.O. 1998, c.15, (Schedule A) comes into force. Thunder Bay Hydro proposes to implement the rates set out in Appendix "B" of this Order on all energy consumed on or after ss 26(1) of the *Electricity Act, 1998*, S.O. 1998, c.15, (Schedule A) comes into force. The Board finds this acceptable.


THE BOARD ORDERS THAT:

1. The rates declared interim by letter dated February 28, 2001 are hereby approved as final rates for the period March 1, 2001 to May 31, 2001.
2. The rates, which include the cost of power increase (EB-2001-0163), as set out in Appendix "A" of this Order are hereby approved as final rates for the period June 1, 2001 to one day prior to when ss 26(1) of the *Electricity Act, 1998*, S.O. 1998, c.15, (Schedule A) comes into force.

3. The rates as set out in Appendix "B" of this order are hereby approved effective on the date ss 26(1) of the *Electricity Act, 1998*, S.O. 1998, c.15, (Schedule A) comes into force.

DATED at Toronto, November 8, 2001.

ONTARIO ENERGY BOARD



Peter H. O'Dell
Assistant Board Secretary

Appendix "A"

**RP-2000-0055
EB-2000-0497
EB-2001-0163**

November 8, 2001

ONTARIO ENERGY BOARD

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

**Peter H. O'Dell
Assistant Board Secretary**

Thunder Bay Hydro
Schedule of Rates
Effective June 1, 2001 through to the day prior to when
Subsection 26(1) of the *Electricity Act* comes into force

Time Periods for Time of Use Rates (Local 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 (as in Toronto), Labour Day, Thanksgiving Day, Christmas Day and Boxing Day.
Off-Peak:	all other hours

Residential Service - Regular:

Energy Charges

First 250 kWh	(per kWh)	\$ 0.13125
All additional kWh	(per kWh)	\$ 0.07885
Minimum Bill		\$ 7.73

Residential Service - Time of Use (At Customer's Request)

Service Charge	(per month)	\$ 1.75
Winter Energy Charges		
Peak Period First 250 kWh	(per kWh)	\$ 0.17575
Peak Period All additional kWh	(per kWh)	\$ 0.12405
Off-Peak Period All kWh	(per kWh)	\$ 0.04155
Summer Energy Charges		
Peak Period First 250 kWh	(per kWh)	\$ 0.15295
Peak Period All additional kWh	(per kWh)	\$ 0.10125
Off-Peak Period All kWh	(per kWh)	\$ 0.03085
Minimum Bill		\$ 7.73

Residential Service - Miscellaneous:

Sentinel Light - per kilowatt of connected load (unmetered energy)	(per kW)	\$24.68
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General Service - Regular: (0 - 5000 kW)

Billing Demand

First 50 Kw	(per kW)	\$ 0.00
Next 4,950 kW	(per kW)	\$ 5.05
All Additional kW	(per kW)	\$12.84

Energy Charges

First 250 kWh	(per kWh)	\$ 0.13125
Next 12,250 kWh	(per kWh)	\$ 0.08335
Next 1,935,000 kWh	(per kWh)	\$ 0.06305
All additional kWh	(per kWh)	\$ 0.04275

Minimum Bill - under 50 kW of maximum demand \$ 7.73

Minimum Bill - over 50 kW of maximum demand (per kW) \$ 0.60

- plus per kW of maximum demand in excess of 50 kW during the previous eleven months or contracted amount whichever is greater

General Service - Time Of Use: (0 - 5000 kW) At Customer's Option

Winter Billing Demand

Peak Period First 50 kW	(per kW)	\$ 0.00
Peak Period Next 4,950 kW	(per kW)	\$ 5.34

Summer Billing Demand

Peak Period First 50 kW	(per kW)	\$ 0.00
Peak Period Next 4,950 kW	(per kW)	\$ 4.09

Winter Energy Charges

Peak Period First 250 kWh	(per kWh)	\$ 0.17675
Peak Period Next 6,625 kWh	(per kWh)	\$ 0.13135
Peak Period Next 1,130,597 kWh	(per kWh)	\$ 0.09245
Peak Period All additional kWh	(per kWh)	\$ 0.05365
Off-Peak Period All kWh	(per kWh)	\$ 0.04185

Summer Energy Charges

Peak Period First 250 kWh	(per kWh)	\$ 0.15395
Peak Period Next 6,625 kWh	(per kWh)	\$ 0.10705
Peak Period Next 1,130,597 kWh	(per kWh)	\$ 0.07735
Peak Period All additional kWh	(per kWh)	\$ 0.04755
Off-Peak Period All kWh	(per kWh)	\$ 0.03105

Minimum Bill - Under 50 kW of maximum demand	\$ 7.66
Minimum Bill - Over 50 kW of maximum demand (per kW)	\$ 0.60
-plus per kW of maximum demand in excess of 50 kW during the previous eleven months or contracted amount whichever is greater	

General Service - Miscellaneous:

Sentinel Light - per kilowatt of connected load (unmetered energy)	(per kW)	\$24.68
--	----------	---------

Large User Service - Time Of Use:

Winter Billing Demand		
Peak Period All kW	(per kW)	\$15.21
Summer Billing Demand		
Peak Period All kW	(per kW)	\$11.12
Winter Energy Charges		
Peak Period All kWh	(per kWh)	\$ 0.05365
Off-Peak Period All kWh	(per kWh)	\$ 0.04155
Summer Energy Charges		
Peak Period All kWh	(per kWh)	\$ 0.04755
Off-Peak Period All kWh	(per kWh)	\$ 0.03085

Street Lighting - Time Of Use:

Winter		
per kW of connected load	(per kW)	\$29.30
Summer		
per kW of connected load	(per kW)	\$16.04

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 provisions in the Rate Handbook.

Allowance for Ownership: (per kW of billing demand)		
service at less than 115 kV	(per kW)	\$ 0.60

Specific Service Charges

Customer Administration

Account Setup Charge	\$15.00
Arrears Certificate	\$10.00
Dispute Involvement Charge	\$10.00

Non-Payment of Account

Restore After Regular Working Hours	\$50.00
Restore During Regular Working Hours	\$30.00
Late Payment Charge (on current portion of outstanding balance)	5.00 %
Returned Cheque Charge - Includes Bank Charges	\$25.00
Collection of Account Charge	\$15.00
Reconnection - during regular working hours	\$20.00
Reconnection - after regular working hours	\$40.00

Service Calls

Other Times	\$66.30
After Regular working hours	\$30.60

Temporary Service - Includes Installation & Removal

- single phase for distances up to 100 feet from existing pole	\$127.50
- for a second direct service to permit relocation of existing	\$127.50

Appendix "B"

**RP-2000-0055
EB-2000-0497
EB-2001-0163**

November 8, 2001

ONTARIO ENERGY BOARD

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

**Peter H. O'Dell
Assistant Board Secretary**

Thunder Bay Hydro
Schedule of Rates
Effective on the day Subsection 26(1)
of the *Electricity Act* comes into force

Residential

Monthly Service Charge	(per month)	\$9.40
Distribution Volumetric Rate	(per kWh)	\$0.0095

General Service, Non-time of Use (Less than 50 kW)

Monthly Service Charge	(per month)	\$14.77
Distribution Volumetric Rate	(per kWh)	\$0.0092

General Service, Non-time of Use (Greater than 50 kW)

Monthly Service Charge	(per month)	\$144.82
Distribution Volumetric Rate	(per kW)	\$0.6809

General Service, Time of Use (Greater than 50 KW)

Monthly Service Charge	(per month)	\$1,427.53
Distribution Volumetric Rate	(per kW)	\$1.0567

Large Use, Time of Use (5000 kW or more)

Monthly Service Charge	(per month)	\$9,852.26
Distribution Volumetric Rate	(per kW)	\$1.2093

Sentinel Lighting

Monthly Service Charge	(per connection)	\$4.8980
Distribution Volumetric Rate	(per kW)	\$3.1639

Street Lighting

Monthly Service Charge	(per connection)	\$1.26
Distribution Volumetric Rate	(per kW)	\$4.7453

Un-metered Scattered Loads

Un-metered scattered loads include traffic lights, telephone booths, cable amplifiers and radio antennae. kWh usage is based on connected load estimates. Charges per account will be as follows:

Monthly Service Charge	(per month)	\$14.77
Distribution Volumetric Rate	(per kWh)	\$0.0092

Specific Service Charges

Customer Administration

Account Setup Charge	\$15.00
Arrears Certificate	\$10.00
Dispute Involvement Charge	\$10.00

Non-Payment of Account

Restore After Regular Working Hours	\$50.00
Restore During Regular Working Hours	\$30.00
Late Payment Charge (on current portion of outstanding balance)	5.00 %
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Collection of Account Charge	\$15.00
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Reconnection - after regular working hours	\$40.00

Service Calls

Other Times	\$66.30
After Regular working hours	\$30.60

Temporary Service - Includes Installation & Removal

- single phase for distances up to 100 feet from existing pole	\$127.50
- for a second direct service to permit relocation of existing	\$127.50

Attachment 2



34 Cumberland St. N.
Thunder Bay, Ontario P7A 4L4
Telephone (807) 343-1111

RECEIVED

DEC 11 2000

ONTARIO ENERGY BD

December 8, 2000

Ontario Energy Board
Rates Department
PO Box 2318
2300 Yonge Street
26th Floor
Toronto, ON M4P 1E4

Dear Madam/Sir:

Re: Thunder Bay Hydro Electricity Distribution Inc.
License No. ED-1999-0271

Please withdraw our rate application filed with the Ontario Energy Board on May 3, 2000. In its place, we wish to file a revised rate application numbered as Version 2.

The reason for the revised application is based on the request to re-file our rate application by November 30, 2000. We do apologize for our tardiness, however, the process to complete the filing took longer than we had anticipated.

The City of Thunder Bay, in its presentation to the Hydro Electric Commission of Thunder Bay (Thunder Bay Hydro), stated that they wanted the utility to operate as a "Not For Profit" Corporation. The rationale was two-fold. Firstly, the City wanted Thunder Bay Hydro to operate in such a manner that electricity rates would be as low as possible to benefit our ratepayers. Secondly, the City wanted our "Payments-In-Lieu" to be kept to a minimum. Therefore, our goal was, and still is, to set our rates in such a manner that we would meet the requirements of the City and still fulfill our operating and capital requirements.

Although we are now incorporated, we are operating under an interim Board of Directors. For this reason, it was agreed with the City that the rate filing contain as much flexibility as possible. Once the Board of Directors have been appointed, we believe that they will want to review the rate setting policy and determine a rate of return that will be required for Thunder Bay Hydro.

Large User Class

Our three large user customers will experience a varying impact. Based on our forecasts, one will experience a 1.4% (winter) and 1.1% (summer) reduction in rates, one will experience a 1.4% (winter) decrease and 2.8 (summer) increase, and the third will experience a 7% (winter) decrease and a 2%(summer) increase.

Yours truly,



Larry Hebert
General Manager & Secretary

CTW/ln
Encl.

Attachment 3



RECEIVED

SEP 14 2001

34 Cumberland St. N.
Thunder Bay, Ontario P7A 4L4
Telephone (807) 343-1111
Website: www.tbhydro.com

ONTARIO ENERGY BD

September 10, 2001

Ontario Energy Board
Rates Department
PO Box 2318
2300 Yonge Street
26th Floor
Toronto, ON M4P 1E4

Attention: Paul Pudge
Board Secretary

OEB BOARD SECRETARY	
File No: <i>RP-2000-0055</i>	SubFile: <i>1</i>
Panel	
Licensing	<i>B. Baksh</i>
Other	
00/04	

Dear Mr. Pudge:

Re: Implementation of Unbundled Rates
Thunder Bay Hydro Electricity Distribution Inc.
Licence Number ED – 1999-0271

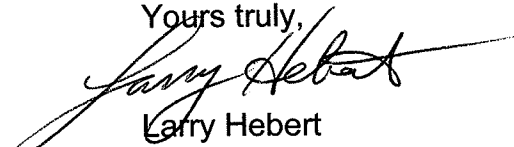
On our rate application, we stated our intention to implement unbundled rates on October 1, 2000. We chose that date because that was the date that the Ministry of Finance elected to implement Payment-in-Lieu of taxes.

In as much as the OEB has issued a directive that Payment-in-Lieu of taxes are to be treated as a flow through, and since our rates are revenue neutral, we hereby respectfully request that we implement our unbundled rates at the time that the electricity market opens.

We are of the opinion that it will be less confusing to our customers for them to go through one rate change as opposed to two.

If you have any questions regarding our request, please do not hesitate to contact me.

Yours truly,


Larry Hebert
General Manager & Secretary

TW/ln

Attachment 4



34 Cumberland St. N.
Thunder Bay, Ontario P7A 4L4
Telephone (807) 343-1111
Website: www.tbhydro.com

RECEIVED

APR 27 2001

ONTARIO ENERGY BOARD

April 25, 2001

Ontario Energy Board
Rates Department
PO Box 2318
2300 Yonge Street
26th Floor
Toronto, ON M4P 1E4

Attention: Paul Pudge
Board Secretary

OEB BOARD SECRETARY	
File No: RP-2000-5-10	SubFile: 10
Panel	
Licensing	B-Baksh
Other	
00/04	

Dear Mr. Pudge:

Re: Thunder Bay Hydro Electricity Distribution Inc.
License No. ED-1999-0271

Please find enclosed our responses to your questions regarding our rate application filed on December 8, 2000.

We have taken the opportunity of enclosing a revised RUD model for our utility. The revised model reflects two changes to our original submission. As stated in previous correspondence we discovered an error in calculating the coincidence factor for our large users. This submission adjusts for the corrected factors. In addition we have looked at the rate impact on our lowest block of customers in the General Service < 50kW block. Due to the implementation of a service charge there is a significant increase to this block of customer. To help mitigate the increase we have decided to change the ratio between Volumetric Charge and Service Charge from 40:60 to 60:40. In both cases we have highlighted the changes through out the spreadsheet.

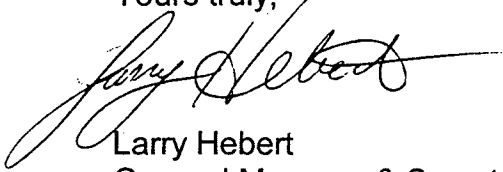
We are also submitting within the RUD model additional Sensitivity Analyses to review the impact on various blocks of customers in both the Residential and General Service < 50kW rate classes for your perusal.

As requested, we are also submitting Sensitivity Analyses and a Rate Schedule (MARR) illustrating the effect of Thunder Bay Hydro implementing the second

phase of attaining a 9.88% Rate of Return. These spreadsheets are prefaced with "p2" in the spreadsheet name.

I trust this information satisfies your request. If you have any additional questions or concerns we will do our best to answer them as well.

Yours truly,

A handwritten signature in black ink, appearing to read "Larry Hebert", written over a horizontal line.

Larry Hebert
General Manager & Secretary

CTW/ln

Encl.

Thunder Bay Hydro Electricity Distribution Inc.
RP-2000-0055, EB-2000-0497
Response to Board Staff Interrogatory #1
Date: April 23, 2001

Question:

1. Please provide details on how the Utility currently charges for Scattered Load (flat load or un-metered load) such as phone booths, radio antennae and traffic lights, and how the Utility proposes to charge for these loads in the new rate structure. How many customers are affected and what is the rate impact of the change in rates?

Detailed below is a summary of flat rate customers that we currently serve.

Customers	Average Monthly Consumption
153	1,000
223	300
1	14,000
1	2,095

All of these customers are billed at our current rates. It is our intention to continue to bill these customers using our approved unbundled rate structure. The impact on the 153 customers that have an average monthly consumption of 1000 kWh is that they will incur a 1.7% increase prior to market opening and a 10.3% increase after the market opens. The 223 customers that have an average monthly consumption of 300 kWh will incur a pre-market rate increase of 6.9% and a post market rate increase of 22.7.

Thunder Bay Hydro Electricity Distribution Inc.
RP-2000-0055, EB-2000-0497
Response to Board Staff Interrogatory #2
Date: April 23, 2001

Question:

2. How do you propose to implement new rates? Is Thunder Bay Hydro able to prorate bills? How much lead time will you need to get your billing systems, etc. ready to implement new rates (e.g. if rates are approved April 1, would 15 days prior to April 1 be needed to get the system ready to handle the new rates)?

In order to mitigate customer confusion associated with changes to billing data presentation, it is our intention to implement the new, partially unbundled rate structure shortly before market opening. Although our billing systems are able to easily handle changes to rates, focus groups we have done with customers show an overwhelming preference for not receiving multiple iterations of unbundled bills.

Thunder Bay Hydro Electricity Distribution Inc.
RP-2000-0055, EB-2000-0497
Response to Board Staff Interrogatory #3
Date: April 23, 2001

Question:

3. Please indicate Thunder Bay Hydro's proposed effective date for the new unbundled rates

It is our preference to implement the new unbundled rates when the electricity market is opened in Ontario. Currently we are not seeking any increases in our rates. Therefore there is no urgency to implement a new set of rates. It will be less confusing to the customer to receive a bill with unbundled rates once all of the information is known. A transitional change to a bill that is partially unbundled will cause confusion.

Thunder Bay Hydro Electricity Distribution Inc.
RP-2000-0055, EB-2000-0497
Response to Board Staff Interrogatory #4
Date: April 23, 2001

Question:

4. As part of the rate approval process, the Board Staff would like to review a draft copy of the customer bill stuffer/insert you will use to inform your customers of the changes to rates. Please provide such a copy. Please be sure to include a statement to the effect that "Thunder Bay Hydro Electricity Distribution Inc. applied for a rate increase which was subsequently approved by the Ontario Energy Board."

In light of the fact that we are not planning to implement new rates until an established market opening date approaches, we have not yet developed a bill stuffer campaign. By waiting until the more of the components of an unbundled bill are determined, (ie: transmission rates, DRC, IMO charges, etc), we believe we will be able to present a more stable and informative message to customers regarding their newly unbundled electricity bill.

Thunder Bay Hydro Electricity Distribution Inc.
RP-2000-0055, EB-2000-0497
Response to Board Staff Interrogatory #5
Date: April 23, 2001

Question:

5. The Utility has indicated in the Manager's Summary the City of Thunder Bay (the shareholder) requested Thunder Bay Hydro to operate as a "Not For Profit" corporation. Consequently, the Utility has no increase in rates due to the MARR (i.e. 1/3 of the amount) in the Year 2001. The Utility has indicated that it recognizes that this amount will not be available for recovery in future years. Please confirm whether or not the Utility plans to increase rates in the Year 2002 (i.e. 1/3 of the MARR) and Year 2003 (i.e. 1/3 of the MARR) based on the remaining 2/3 of the MARR. And if not, confirm the Utility understands that this amount(s) also will be foregone and may not be available for recovery in future years.

As discussed with Mr. B. Baksh, Thunder Bay Hydro will ask its shareholder for clear direction on this matter and we will have a response to this question to the Ontario Energy Board for May 18, 2001.

Thunder Bay Hydro Electricity Distribution Inc.
RP-2000-0055, EB-2000-0497
Response to Board Staff Interrogatory #6
Date: April 23, 2001

Question:

6. Regarding sheet 7 of the RUD model, please provide a detailed calculation as to how the following was determined: "1999 return \$" amount of \$2,821,665.60. It was noted that the Utility's 1999 financial statements show "Net operating earning before financial expense" to be \$868,952. If the 1999 return dollar amount is incorrect, please revise and resubmit sheet 7 and any other affected sheet(s).

The "1999 return \$" amount on sheet 7 of the RUD model should be changed to \$868,952 as this is the correct amount. We will resubmit our RUD model highlighting all changes that result from this correction and any other corrections that have been made to the rate model.

Thunder Bay Hydro Electricity Distribution Inc.
RP-2000-0055, EB-2000-0497
Response to Board Staff Interrogatory #7
Date: April 23, 2001

Question:

7. Provide a reconciliation for the difference in the Utility's total revenues as shown on sheet 4 of the RUD model, an amount of \$79,177,101 and as shown on the 1999 financial statements, an amount of \$78,676,751. This represents a difference in total revenues of \$638,220.

The difference is due to including additional load for two large users. Due to a work stoppage, one large user was operating at a reduced load for the period of September 1999 to December 1999 and the other large user was operating at a reduced load for the month of September 1999. Cost of power and Revenue were both adjusted to reflect normal operating levels.

The total revenues in the financial statements include a negative adjustment for unbilled revenue. The RUD model does not include Unbilled Revenue.

Detailed below is the reconciliation of the RUD model to the total revenue reported in the Financial Statements.

	Per Sheet 4 of RUD	Per Financial Statements
Residential	31,439,794	31,448,074
General Service	42,218,542	47,109,277
Street Lighting	530,863	533,068
Large User (included in General Service on F/S)	5,125,773	
Sub Total	\$ 79,314,972	\$ 79,090,419
Adjustment for Large Users due to two customers on strike during 1999	(224,553)	
Reconciled Totals	\$ 79,090,419	\$ 79,090,419
Adjustment for unbilled revenue		413,668
Balance per Financial Statements		\$ 78,676,751

Thunder Bay Hydro Electricity Distribution Inc.
RP-2000-0055, EB-2000-0497
Response to Board Staff Interrogatory #8
Date: April 23, 2001

Question:

8. Referring to the determination of the utility wires-only 1999 rate base of \$66,420,856 please explain whether any contributed capital received after December 31, 1999 has been included in the utility rate base. If so, please indicate the amount, explain the circumstances and provide a justification for the inclusion of such contributed capital in the utility rate base.

Any contributed capital received after December 31, 2000 has not been included in the rate base.

Thunder Bay Hydro Electricity Distribution Inc.
RP-2000-0055, EB-2000-0497
Response to Board Staff Interrogatory #9
Date: April 23, 2001

Question:

9. In the Utility's submission of Filing Requirement for Rate Base, it has allocated an amount of 40 percent of building and fixtures to the rate base. Please provide a detailed breakdown of building and fixtures, and the basis for the 40 percent allocation to the rate base.

The 40 percent allocated to the rate base represents the value of the buildings transferred to the distribution company by the City of Thunder Bay. This includes our Operations Centre and all of our stations. The 60 percent not transferred represents the cost of the Thunder Bay Hydro Building at 34 Cumberland Street North. The City retained this building. Thunder Bay Hydro is one of several tenants in the building.

Thunder Bay Hydro Electricity Distribution Inc.
RP-2000-0055, EB-2000-0497
Response to Board Staff Interrogatory #10
Date: April 23, 2001

Question:

10. Provide a reconciliation for the difference in the Utility's total revenue requirement as shown on sheet 4 of the RUD model, an amount of \$79,177,101 and total revenues as shown on the 1999 financial statements, an amount of \$78,676,751. This represents a difference in total revenues of \$638,220.

Duplicate question. Please see response to question number 7.

Thunder Bay Hydro Electricity Distribution Inc.
RP-2000-0055, EB-2000-0497
Response to Board Staff Interrogatory #11
Date: April 23, 2001

Question:

11. On sheets 6 and 12 of the RUD model, the rate impacts for the General Service <50 kW customers at the usage level of 75kW are shown as 260.9% and 233.8% respectively. How many of the 4,771 customers in this customer class (i.e. General Service <50 kW) are at the 75kW usage level? In addition, please provide the rate impacts for the General Service <50 kW customers at various usage levels (i.e. 250 kWh, 500 kWh, 1000 kWh, 2000 kWh, 3000 kWh, 4000 kWh, 5000 kWh and 6000 kWh).

This is one customer. Please see the sheets 6 and 12 in the revised RUD model that provides the information that you have requested.

Thunder Bay Hydro Electricity Distribution Inc.
RP-2000-0055, EB-2000-0497
Response to Board Staff Interrogatory #12
Date: April 23, 2001

Question:

12. Please provide the number of customers in each class that will receive bill increases greater than 10% at the unbundling stage (i.e. before MARR adjustments) and at what level of consumption these would occur (e.g. 10 residential customers at 180 kWh). If you cannot provide exact numbers provide your best estimate of the likely number of customers, so affected.

This has been illustrated in the revised RUD model enclosed with this response.

Thunder Bay Hydro Electricity Distribution Inc.
RP-2000-0055, EB-2000-0497
Response to Board Staff Interrogatory #13
Date: April 23, 2001

Question:

13. Please provide a rate schedule for Thunder Bay Hydro based on the new rate structure.

This is provided as Sheet 16 in the enclosed revised RUD model.

Attachment 5



June 27, 2001

Ontario Energy Board
Rates Department
PO Box 2318
2300 Yonge Street
26th Floor
Toronto, ON M4P 1E4

Attention: Paul Pudge
Board Secretary

Dear Mr. Pudge:

Re: Thunder Bay Hydro Electricity Distribution Inc.
License No. ED-1999-0271

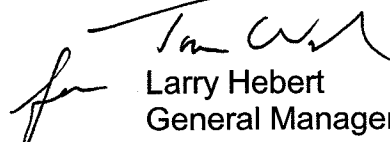
Please find enclosed our responses to your second set of interrogatories regarding our rate application filed on December 8, 2000.

We have taken the opportunity of enclosing a revised RUD model for our utility. The revised model reflects one additional change to our original submission. The Rate of Return has been adjusted to 1.31%, the same rate earned in 1999. As a result there is additional revenues required and hence there is no deferral of revenues to be adjusted for in the RUD spreadsheet.

As requested, copies of our responses have been forwarded to the City of Thunder Bay and Direct Energy Marketing Ltd.

I trust this information satisfies your request. If you have any additional questions or concerns we will do our best to answer them as well.

Yours truly,


Larry Hebert
General Manager & Secretary

CTW/ln
Encl.

34 Cumberland St. N.
Thunder Bay, Ontario P7A 4L4
Telephone (807) 343-1111
Website: www.tbhydro.com

RECEIVED

JUN 29 2001

ONTARIO ENERGY BD

OEB BOARD SECRETARY	
File No: <i>ED-1999-0055</i>	SubFile: <i>1</i>
Panel	
Licensing	<i>B. Baksh</i>
Other	
00/04	Thunder Bay Hydro Corporation

Thunder Bay Hydro Electricity Distribution Inc.

Committed to Customer Satisfaction

Thunder Bay Hydro Electricity Distribution Inc.
RP-2000-0055, EB-2000-0497
Response to Board Staff Interrogatory List #2
Date: June 27, 2001

Question 1:

1. With respect to the new rate structure for Scattered Load (flat load or un-metered load) such as phone booths, radio antennae and traffic lights, provide the following breakdown with respect to each load type: distribution volumetric charge; distribution service charge; and, cost of power.

As requested, detailed below is the rate to be charged for Scattered Load.

DISTRIBUTION KWH RATE	\$0.0092
MONTHLY SERVICE CHARGE (PER CUSTOMER)	\$14.7709
COST OF POWER KWH RATE	\$0.0655

Thunder Bay Hydro Electricity Distribution Inc.
RP-2000-0055, EB-2000-0497
Response to Board Staff Interrogatory List #2
Date: June 27, 2001

Question 2:

2. Given that Payment in Lieu of Taxes will be effect Oct. 1, 2001, please confirm Board staff understanding that Thunder Bay Hydro's proposed effective date for implementing the new unbundled rates will be on the same date.

We confirm that we would prefer the effective date for implementing the new unbundled rate to be October 1, 2001.

Thunder Bay Hydro Electricity Distribution Inc.
RP-2000-0055, EB-2000-0497
Response to Board Staff Interrogatory List #2
Date: June 27, 2001

Question 3:

3. Please provide the Utility's decision on Question 5 of Board Staff Interrogatory List #1.

For your reference, Question 5 is as follows:

The Utility has indicated in the Manager's Summary the City of Thunder Bay (the shareholder) requested Thunder Bay Hydro to operate as a "Not For Profit" corporation. Consequently, the Utility has no increase in rates due to the MARR (i.e. 1/3 of the amount) in the Year 2001. The Utility has indicated that it recognizes that this amount will not be available for recovery in future years. Please confirm whether or not the Utility plans to increase rates in the Year 2002 (i.e. 1/3 of the MARR) and Year 2003 (i.e. 1/3 of the MARR) based on the remaining 2/3 of the MARR. And if not, confirm the Utility understands that this amount(s) also will be foregone and may not be available for recovery in future years.

It is the intention of the shareholder to have the utility set its rate to maintain its current status. Rate of return is not to be a motivating factor. The utility has received direction from the shareholder to maintain the rate of return it required in 1999. Please find attached a RUD model that reflects this direction.

Thunder Bay Hydro Electricity Distribution Inc.
RP-2000-0055, EB-2000-0497
Response to Board Staff Interrogatory List #2
Date: June 27, 2001

Question 4:

4. Please confirm that the Utility has selected a Target Return on Equity of 1.308 percent and a Debt Rate of 1.308 percent in order to maintain its historic rate of return based on 1999 financial results.

We confirm that the Utility has selected a Target Return on Equity of 1.308 percent and a Debt Rate of 1.308 percent in order to maintain its historic rate of return based on 1999 results.

Thunder Bay Hydro Electricity Distribution Inc.
RP-2000-0055, EB-2000-0497
Response to Board Staff Interrogatory List #2
Date: June 27, 2001

Question 5:

5. Revised RUD model sheets 6, 12 and 13 show rate impacts for General Service <50 kW low volume customers that are greater than the Board 10 percent guideline. Please provide a detailed explanation including price comparisons at pre and post restructured rates for each sub-class and the number of customers so affected.

Please see Schedule 1 – attached.

As per the above analyses, while the percentage increase is above the suggested guideline of 10 percent, the dollar impact amounts to \$9.11 monthly. To reduce the impact on this block of customers would necessitate decreasing the monthly service charge and increase the volumetric charge. The consequences would be to subject the other general service customers in this class to a further rate increase.

Thunder Bay Hydro Electricity Distribution Inc.
RP-2000-0055, EB-2000-0497
Response to Board Staff Interrogatory List #2
Date: June 27, 2001

Question 6:

6. Board staff understands that Thunder Bay Hydro is a member of the Northwest Energy Association through which bulk power purchases are made at discounted prices, and that these discounts are passed to its members. Please provide the discounted amounts that the Utility received from the association in 1999 and whether the discount amounts on the power purchases are reflected the RUD model's COP amounts?

In 1999 Thunder Bay Hydro received a rebate of \$59,324.65 because of the aggregation agreement in place with Ontario Power Generation Inc.(successor company to Ontario Hydro). This agreement is currently being renegotiated and a new agreement is expected to be signed. The discount amounts are on the power purchases are not reflected in the RUD model's COP amounts.

H:\Applications_Rates\Applications\RP-2000-0055\Interrog-Ltr2_Thunder Bay.wpd

Attachment 6

Ontario Energy
Board
P.O. Box 2319
26th. Floor
2300 Yonge Street
Toronto ON M4P 1E4
Telephone: 416- 481-1967
Facsimile: 416- 440-7656
Toll free: 1-888-632-6273

Commission de l'Énergie
de l'Ontario
C.P. 2319
26e étage
2300, rue Yonge
Toronto ON M4P 1E4
Téléphone: 416- 481-1967
Télécopieur: 416- 440-7656
Numéro sans frais: 1-888-632-6273



BY PRIORITY POST

2002 April 5

Larry Hebert
General Manager & Secretary
Thunder Bay Hydro Electricity Dist. Inc.
34 N. Cumberland Street
Thunder Bay, ON
P7A 4L4

Dear Mr. Hebert:

**Re: Thunder Bay Hydro Electricity Dist. Inc.
Market Adjusted Rate of Return (MARR) Application
Board File No. RP-2002-0026/EB-2002-0035**

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

c: H. Johns



RP-2002-0026
EB-2002-0035

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
Thunder Bay Hydro Electricity Distribution 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.

Thunder Bay Hydro Electricity Distribution Inc. ("the Applicant") filed an Application ("the Application"), dated January 30, 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 May 1, 2002.

The Applicant filed a revised application ("the Revised Application") dated February 21, 2002.

The Board published a generic Notice in newspapers across Ontario informing ratepayers of the distribution rate adjustments to be effective no earlier than 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 named in one of the template 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), \$387.
- the 2001 deferred Payments in Lieu of Taxes (PILs), \$372,382.
- the 2002 Payments in Lieu of Taxes (PILs), \$1,518,344.
- a change in the Applicant's late payment penalty and a provision for the revenue losses incurred by this change, \$219,098.

The Applicant also applied for certain new specific service charges relating to change of occupancy and requests for account history.

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: the Applicant entered an incorrect amount for Sentinel Light Distribution Revenue; the 2nd installment of 1/3 Incremental MARR was incorrectly included in the RAM as the 2nd installment was already included in the Approved Unbundled Rates in the RUD Application in November 2001; in the calculation of Capital Cost Allowance for 2001 PILs, the CCA submitted was not based on 50% of the net asset value; for both 2001 and 2002 PILs, the Applicant incorrectly entered the 1st 1/3 MARR in the amount allowed in 2001.

As a result,

- the Distribution Revenue for Sentinel Lights was changed from \$12,121 to \$8,522.
- the 2002 2nd installment of 1/3 Incremental MARR was set to zero.

- the 2001 deferred Payments in Lieu of Taxes (PILs) amount was adjusted to correct for an understatement of \$204,093.
- the 2002 Payments in Lieu of Taxes (PILs) amount was adjusted to correct for an overstatement of \$128,539.

The Applicant proposed certain new specific service charges. 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. The Board therefore does not approve the Applicant's proposal to introduce new service charges 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 May 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, April 5, 2002.

ONTARIO ENERGY BOARD



Peter H. O'Dell
Assistant Board Secretary

Appendix "A"

RP-2002-0026
EB-2002-0035

April 5, 2002

ONTARIO ENERGY BOARD

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

Peter H. O'Dell
Assistant Board Secretary

Thunder Bay Hydro Electricity Distribution Inc
Schedule of Rates and Charges
Effective May 1, 2002

RP-2002-0026
EB-2002-0035

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)	\$	10.88
Distribution Volumetric Rate	(per kWh)	\$	0.0110
Cost of Power Rate	(per kWh)	\$	0.0739

GENERAL SERVICE < 50 KW

Monthly Service Charge	(per month)	\$	17.21
Distribution Volumetric Rate	(per kWh)	\$	0.0106
Cost of Power Rate	(per kWh)	\$	0.0729

GENERAL SERVICE > 50 KW (Non Time of Use)

Monthly Service Charge	(per month)	\$	165.38
Distribution Volumetric Rate	(per kW)	\$	0.8035
Cost of Power Demand Rate	(per kW)	\$	8.1493
Cost of Power Energy Rate	(per kWh)	\$	0.0513

GENERAL SERVICE > 50 KW (Interval Metered)

Monthly Service Charge	(per month)	\$	1,638.91
Distribution Volumetric Rate	(per kW)	\$	1.2387
Cost of Power - Winter Peak	(per kW)	\$	8.9170
Cost of Power - Summer Peak	(per kW)	\$	6.6928
Cost of Power - Winter Peak	(per kWh)	\$	0.0706
Cost of Power - Winter Off Peak	(per kWh)	\$	0.0422
Cost of Power - Summer Peak	(per kWh)	\$	0.0596
Cost of Power - Summer Off Peak	(per kWh)	\$	0.0313

Thunder Bay Hydro Electricity Distribution Inc
Schedule of Rates and Charges - Page 2
Effective May 1, 2002

RP-2002-0026
EB-2002-0035

LARGE USE

Monthly Service Charge	(per month)	\$	11,396.42
Distribution Volumetric Rate	(per kW)	\$	1.3992
Cost of Power - Winter Peak	(per kW)	\$	8.9532
Cost of Power - Summer Peak	(per kW)	\$	7.3333
Cost of Power - Winter Peak	(per kWh)	\$	0.0689
Cost of Power - Winter Off Peak	(per kWh)	\$	0.0412
Cost of Power - Summer Peak	(per kWh)	\$	0.0582
Cost of Power - Summer Off Peak	(per kWh)	\$	0.0306

SENTINEL LIGHTS (Non Time of Use)

Monthly Service Charge	(per connection)	\$	5.67
Distribution Volumetric Rate	(per kW)	\$	3.6604
Cost of Power Demand Rate	(per kW)	\$	5.9900

STREET LIGHTING (Non Time of Use)

Monthly Service Charge	(per connection)	\$	1.47
Distribution Volumetric Rate	(per kW)	\$	5.4673
Cost of Power Demand Rate	(per kW)	\$	5.9900

UN-METERED SCATTERED LOADS

Un-metered scattered loads such as cable amplifiers, car park lights, and traffic lights will be billed at General Service < 50 kW rates.

Energy usage is based on connected load estimates. Charges per account will be as follows:

Monthly Service Charge	(per connection)	\$	17.21
Distribution Volumetric Rate	(per kWh)	\$	0.0106
Cost of Power Rate	(per kWh)	\$	0.0729

Thunder Bay Hydro Electricity Distribution Inc
Schedule of Rates and Charges - Page 3
Effective May 1, 2002

RP-2002-0026
EB-2002-0035

SPECIFIC SERVICE CHARGES

Customer Administration:

Account Setup Charge	\$	15.00
Dispute Meter Test	\$	10.00
Arrears Certificate	\$	10.00
Returned Cheque	\$	25.00

Late Payment Charge (interest on past due accounts)	(per month)	1.50%
	(per annum)	19.56%

Collection of Account Charge	\$	15.00
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Non-payment of Account

Restore after Regular Working Hours	\$	50.00
Restore During Regular Working Hours	\$	30.00
Reconnection - During Regular Working Hours	\$	20.00
Reconnection - After Regular Working Hours	\$	40.00

Service Calls

Other Times	\$	66.30
During Regular Working Hours	\$	30.60

Temporary Service - Includes Installation & Removal

- single phase for distances up to 100 feet from existing pole	\$	127.50
- for single direct service to permit relocation of existing pole	\$	127.50