



Niagara-on-the-Lake Hydro Inc.

July 9, 2012

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
26th Floor
2300 Yonge Street
Toronto ON M4P 1E4

Via RESS, e-mail and courier

Niagara-on-the-Lake Hydro Inc. – Disposition of Account 1562

Responses to OEB Staff Interrogatories

OEB Case EB-2012-0026

Dear Ms. Walli

Niagara-on-the-Lake Hydro Inc. is pleased to submit its responses to the OEB staff interrogatories regarding this application.

We would be pleased to provide any further information or details that you may require.

Yours truly

 Jim Huntingdon, President
Encl.

Cc by e-mail:
Michael Buonaguro, Public Interest Advocacy Centre - mbuonaguro@piac.ca

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Response to Board Staff Interrogatories Disposition of Account 1562 – Deferred PILs Niagara-on-the-Lake Hydro Inc. EB-2012-0026

Interrogatory 1a

Reference: 2001 through 2005 SIMPIL Models and 1562_Continuity
Schedule 2006 to 2012_20120418
Income Tax Rates

1) In the Combined Proceeding EB-2008-0381, the three applicants were all

- a) Did NOTL consider using the minimum income tax rates shown on page 17 of the decision in the combined proceeding? If NOTL did not consider using the minimum income tax rates, please explain why.

Response 1a

NOTL did not consider using the minimum income tax rate because it is not entitled to a full small business deduction as can be seen in the taxation years 2002, 2004 and 2005 when the company did have taxable income.

Interrogatory 1b

- b) NOTL experienced tax losses and utilized loss carry forwards from 2001 through 2003 and had no taxable income. Please explain why NOTL considers the maximum income tax rates to be more correct than the minimum income tax rates for these three years?

Response 1b

NOTL had no taxable income in 2001 and 2003. In 2002, the company had taxable income. The maximum income tax rates are more correct than the minimum income tax rates because NOTL was not entitled to a full small business deduction. For the years 2002, 2004 and 2005, on average, the small business deduction was clawed back by almost 60%.

Interrogatory 1c

- c) Please make copies of the 2001 to 2005 SIMPIL models in Excel format and insert the minimum income tax rates in sheet TAXCALC in the 2001 to 2005 SIMPIL models. Please update the 2001 to 2012 PILs continuity schedule in Excel format with the revised variances and the final balance for disposition created by the changed income tax rates.

Response 1c

Excel format SIMPIL models and continuity schedule are attached labeled "scenario A", or "SC A" for short.

This method arbitrarily uses the minimum tax rates as the appropriate tax rate to use in the SIMPIL models. NOTL is not such a small distributor that it is entitled to use the minimum income tax rates on its tax returns. This can be clearly seen in 2004 and 2005. This is further supported by the levels of regulatory taxable income. NOTL is not entitled to the full small business deduction. Using the minimum tax rates results in inaccurate true-ups and is arbitrary in nature with no basis in "tax" reality. NOTL strongly objects to using the minimum tax rates.

NOTL requests that the maximum tax rates as set out in the Board's decision EB-2008-0381 be used to calculate the PILs true-ups. The maximum tax rates are more appropriate than the minimum tax rates since NOTL's actual tax rates are closer to the maximum than they are to the minimum rates. Excel format SIMPIL models and continuity schedule are attached labeled "scenario X", or "SC X" for short, reflecting the maximum tax rates. These are the same tax rates as used in the submission on February 29, 2012:

Interrogatory 1d

- d) Can NOTL suggest a different approach to determining the income tax rates to be used in the true-up calculations? Please use these income tax rates and file the revised SIMPIL models for 2001 through 2005 with a revised continuity schedule. Please ensure that the income tax rate includes the surtax of 1.12% to calculate the tax impact, and excludes the 1.12% to compute the grossed-up taxes.

Response 1d

NOTL suggests a hybrid approach to determining the appropriate tax rate to be used in the years 2001 and 2003. The hybrid approach uses regulatory taxable income as an estimate for taxable income and actual taxable capital to estimate the impact of the claw back of the small business deduction.

NOTL recognizes that this hybrid model is a combination of a regulatory model and an actual taxes model for determining tax rates. A full regulatory model would use rate base as a proxy for taxable capital. Rate base is not an appropriate proxy for taxable capital because, for NOTL, this does not result in the use of the applicable legislated tax rate for the purposes of the true-up calculation in the SIMPIL models. The fact is that NOTL is required to use a legislated tax rate that is greater than the tax rate calculated using a full regulatory model for determining tax rates. The tax returns for 2001 and 2003 are inappropriate with respect to taxable income due to the tax losses incurred. They are not inappropriate with respect to taxable capital. Taxable capital was not eliminated because of the losses incurred in these years. NOTL was subjected to a reduced small business deduction for federal tax purposes. The small business deduction tax rate is calculated based upon regulatory taxable income and the actual federal claw-back based upon prior year's gross part I.3 tax (gross LCT). The actual legislated tax rate was calculated using the maximum tax rates set out in the tax rate table in the combined proceeding decision (including surtax) with a reduction for the small business deduction to which NOTL was entitled. The tax rates for gross-up purposes are the rates calculated as described reduced by 1.12% being the surtax reduction. NOTL suggests using an "actual" approach to determining tax rates for 2002, 2004 and 2005. The actual model uses actual taxable income and actual taxable capital to determine the appropriate tax rates.

Attached is the calculation of the tax rates by year for this suggested approach. Revised SIMPIL models and updated PILs continuity schedule are labeled "Scenario B", or "SC B" for short.

Interrogatory 2a

Gains and Losses on Disposals of Fixed Assets

- 2) NOTL included its fixed assets in the calculation of rate base for the 2000 - 2001 application. The Board approved the rate base for use in the determination of distribution rates. NOTL continued to receive the return on these assets from ratepayers even though it may have disposed of assets during the period 2002 through 2005.
- a) Please explain why the variances caused by disposals of fixed assets that NOTL input on TAXREC2 sheet should true up to ratepayers in the 2002 through 2005 SIMPIL models.

Response 2a

The variances caused by disposals of fixed assets should not have been input on TAXREC 2 sheet. The variances have been moved to TAXREC 3 sheet.

Interrogatory 2b

- b) If NOTL agrees that it should not true up to ratepayers, please move the fixed asset transactions to the SIMPIL model TAXREC3 sheet and update the PILs continuity schedule and final balance for disposition.

Response 2b

The fixed asset transactions have been moved to the SIMPIL model TAXREC 3 sheet. The PILs continuity schedule has been updated accordingly.

Interrogatory 3a

Interest Expense for Tax Years 2001 to 2005

- 3) When the actual interest expense, as reflected in the financial statements and tax returns, exceeds the maximum deemed interest amount approved by the Board, the excess amount is subject to a claw-back penalty and is shown in sheet TAXCALC as an extra deduction in the true-up calculations.

In the 2001 Q4, 2002 and 2003 SIMPIL models, the TAXCALC worksheet row 206 cell E206 "interest adjustment for tax purposes" is calculated as interest reported in the tax returns less "*total deemed interest*". In NOTL's

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2004 and 2005 SIMPIL models, interest reported in the tax returns is subtracted from "*actual interest paid*" to calculate the adjustment.

- a) Please explain why the calculation for "interest adjustment for tax purposes" shows a deduction of total deemed interest in the 2001 Q4, 2002 and 2003 SIMPIL models, whereas in the 2004 and 2005 SIMPIL models the calculation deducts actual interest paid?

Response 3a

This was an error in the model in 2004 and 2005 which has been corrected in the revised SIMPIL models and PILs continuity schedule.

Interrogatory 3b

- b) Where is the "actual interest paid" amount derived from in these years?

Response 3b

This was an error which has been corrected.

Interrogatory 3c

c) Should NOTL be subject to the settlement of Issue 13 related to the excess interest claw-back in the combined proceeding? Please explain.

Response 3c

Yes NOTL should be subject to the settlement of Issue 13 related to the excess interest claw-back in the combined proceeding. The SIMPIL models have been adjusted along with the PILs continuity schedule.

Interrogatory 3d

d) If an adjustment is made to the excess interest claw-back calculations, please file the revised SIMPIL models and update the PILs continuity schedule and final balance for disposition.

Response 3d

Revised SIMPIL models have been prepared along with an updated PILs continuity schedule.

Interrogatory 4a

- 4) For the tax years 2001 to 2005:
- a) Please provide a table for the years 2001 to 2005 that shows all of the components of NOTL's interest expense and the amount associated with each type of interest.

Response 4a

Table 1 on the next page shows all the components and amounts:

Table 1

Line	OEB Account	Description of Interest Expense Item		2001	2002	2003	2004	2005
1	6005	Interest on loan from Town to NOTL Hydro-Electric Commission in year 2000		\$ 17,280	\$ -	\$ -	\$ -	\$ -
2	6005	Interest on Promissory Note with Town of NOTL		\$ 458,651	\$ 501,297	\$ 500,347	\$ 500,347	\$ 500,347
3	6005	Interest on loan from CIBC for construction of a new transformer station		\$ -	\$ -	\$ 74,851	\$ 172,675	\$ 159,973
4	6005	Interest on loan from CIBC for purchase of a transformer station from Hydro One		\$ -	\$ -	\$ -	\$ -	\$ 32,954
5	6005	Interest on loan from affiliate (ESNI)		\$ 5,015	\$ 3,263	\$ -	\$ -	\$ -
6	6005	Bank issuance commission for IMO prudential letters of credit		\$ -	\$ 5,797	\$ 4,718	\$ -	\$ -
	6005	Total of OEB Account		\$ 480,945	\$ 510,356	\$ 579,916	\$ 673,021	\$ 693,274
7	6035	Accrued Interest on customer deposits		\$ 3,457	\$ 1,440	\$ 894	\$ 136	\$ 2
8	6035	Late payment interest for various vendors (e.g. OPG, Visa, Revenue Canada, office suppliers, PILs)		\$ 2,908	\$ 1,860	\$ 1,423	\$ 4,110	\$ 3,238
9	6035	Bank overdraft credit facility interest		\$ 3,625	\$ 23,682	\$ 1,060	\$ 963	\$ 2,880
10	6035	Deferral and Variance account carrying expenses		\$ -	\$ 4,277	\$ -	\$ -	\$ -
11	6035	Interest on "work-in-progress" loan from CIBC for construction of a transformer station		\$ -	\$ -	\$ 9,848	\$ -	\$ -
12	6035	Business Protection Plan Rebate interest		\$ -	\$ -	\$ -	\$ 632	\$ -
	6035	Total of OEB Account		\$ 9,990	\$ 31,259	\$ 13,224	\$ 5,840	\$ 6,120
	INTEREST EXPENSE per audited Financial statements ("F/S")			\$ 490,936	\$ 541,615	\$ 593,140	\$ 678,861	\$ 699,394

Note on Line 10, account 6035

On September 28, 2009, OEB staff presented a webinar on the Retail Settlement Variance account with subsequent Questions and Answers. In particular:



In general, in the years 2001 to 2005 in the Table on the previous page, the accounting for carrying charges netted together carrying charge interest expenses and revenues for the whole year and for all deferral and variances accounts in total. The result was posted to account 4405. For this Response, we have reviewed the available accounting data for that period and determined what amounts would have been recorded to 6035 if the OEB Q1/A1 above had been followed. The analysis is summarized in Table 2:

Table 2

TABLE 2

A. WAS PER AUDITED FINANCIAL STATEMENTS								
6035 per F/S	Deferral and Variance account carrying expenses	1562	\$ -	\$ 4,277	\$ -	\$ -	\$ -	
		1574	\$ -	\$ -	\$ -	\$ -	\$ -	
		1584	\$ -	\$ -	\$ -	\$ -	\$ -	
		1586	\$ -	\$ -	\$ -	\$ -	\$ -	
		1588	\$ -	\$ -	\$ -	\$ -	\$ -	
		1590	\$ -	\$ -	\$ -	\$ -	\$ -	
		2425	\$ -	\$ -	\$ -	\$ -	\$ -	
		Total	\$ -	\$ 4,277	\$ -	\$ -	\$ -	
B. WOULD HAVE BEEN IF RECORDED PER OEB Webinar								
6035	Deferral and Variance account carrying expenses	1562	\$ -	\$ 4,277	\$ -	\$ 6,732	\$ 8,669	
		1574	\$ -	\$ -	\$ -	\$ 882	\$ -	
		1584	\$ -	\$ -	\$ 225	\$ 293	\$ 230	
		1586	\$ -	\$ -	\$ 3,295	\$ 5,998	\$ 23,850	
		1588	\$ -	\$ 231	\$ 22,619	\$ 3,950	\$ 14,152	
		1590	\$ -	\$ -	\$ -	\$ 2,226	\$ 14,293	
		2425*	\$ -	\$ -	\$ 37,026	\$ 47,682	\$ 49,123	
		Total	\$ -	\$ 4,508	\$ 63,165	\$ 67,763	\$ 110,316	
(* Account in which liability for Hydro One's OEB-approved Recovery of Regulatory Assets was recorded)								
DIFFERENCE = B-A								
Would have been added to 6035	Deferral and Variance account carrying expenses	Total	\$ -	\$ 231	\$ 63,165	\$ 67,763	\$ 110,316	
From 4405	Deferral and Variance account carrying revenue	Total	\$ -	\$ (231)	\$ (63,165)	\$ (67,763)	\$ (110,316)	

Applying this difference to the interest expense Table1, the following Table 3 would have been the interest expense details. Table 3 is the same as Table 1 except for Account 6035:

Table 3

REVISED								
Line	OEB Account	Description of Interest Expense Item		2001	2002	2003	2004	2005
1	6005	Interest on loan from Town to NOTL Hydro-Electric Commission in year 2000		\$ 17,280	\$ -	\$ -	\$ -	\$ -
2	6005	Interest on Promissory Note with Town of NOTL		\$ 458,651	\$ 501,297	\$ 500,347	\$ 500,347	\$ 500,347
3	6005	Interest on loan from CIBC for construction of a new transformer station		\$ -	\$ -	\$ 74,851	\$ 172,675	\$ 159,973
4	6005	Interest on loan from CIBC for purchase of a transformer station from Hydro One		\$ -	\$ -	\$ -	\$ -	\$ 32,954
5	6005	Interest on loan from affiliate (ESNI)		\$ 5,015	\$ 3,263	\$ -	\$ -	\$ -
6	6005	Bank issuance commission for IMO prudential letters of credit		\$ -	\$ 5,797	\$ 4,718	\$ -	\$ -
	6005	Total of OEB Account		\$ 480,945	\$ 510,356	\$ 579,916	\$ 673,021	\$ 693,274
7	6035	Accrued Interest on customer deposits		\$ 3,457	\$ 1,440	\$ 894	\$ 136	\$ 2
8	6035	Late payment interest for various vendors (e.g. OPG, Visa, Revenue Canada, office suppliers, PILs)		\$ 2,908	\$ 1,860	\$ 1,423	\$ 4,110	\$ 3,238
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11	6035	Interest on "work-in-progress" loan from CIBC for construction of a transformer station		\$ -	\$ -	\$ 9,848	\$ -	\$ -
12	6035	Business Protection Plan Rebate interest		\$ -	\$ -	\$ -	\$ 632	\$ -
	6035	Total of OEB Account		\$ 9,990	\$ 31,490	\$ 76,388	\$ 73,603	\$ 116,436
	INTEREST EXPENSE (modified per OEB Webinar)			\$ 490,936	\$ 541,846	\$ 656,304	\$ 746,624	\$ 809,710

Interrogatories 4b to 4i

- b) Did NOTL have interest expense related to other than debt that is disclosed as interest expense in its financial statements?
- c) Did NOTL net interest income against interest expense in deriving the amount it shows as interest expense? If yes, please provide details to what the interest income relates.
- d) Did NOTL include interest expense on customer security deposits in interest expense?
- e) Did NOTL include interest income on customer security deposits in interest expense?
- f) Did NOTL include interest expense on IESO prudentials in interest expense?
- g) Did NOTL include interest carrying charges on regulatory assets or liabilities in interest expense?
- h) Did NOTL include the amortization of debt issue costs, debt discounts or debt premiums in interest expense?
- i) Did NOTL deduct capitalized interest in deriving the interest expense disclosed in its financial statements?

Responses 4b to 4i

- *4b – No. All interest expenses in Table 1 relate to debt in some form (i.e. debt in the sense of a liability or obligation to pay).*
- *4c – No. However, please see Note regarding Line 10 in Table 1, account 6035.*
- *4d – Yes – see Line 7 in Table 1.*
- *4e – No*
- *4f – Yes – see Line 6 in Table 1.*
- *4g – Yes – see Line 10 and the Note regarding line 10.*
- *4h – No. There were no such costs, discounts or premiums.*
- *4i – No. NOTL did not capitalize interest.*

Interrogatory 5a

Reference: Acct 1562_PILs_Billed_20120312_20120228
PILs Recoveries from Customers

- 5) In the application evidence filed in 2002, 2004 and 2005, NOTL provided statistics of demand data. In 2006 EDR, NOTL also provided statistics for 2002-2004. The trend for the majority of distributors is that the PILs recoveries exceed the proxies for the full years of 2003, 2004 and 2005. PILs rates slivers were derived in 2002 using billing determinants estimated for the 2001 fiscal year. As demand and population grew, the PILs dollar amounts recovered were higher than the proxy set using 2001 billing determinants. The table below shows NOTL's evidence for the full years of 2003, 2004 and 2005.
- a) Please explain why the PILs proxies in rates were greater than the PILs recoveries in 2004 as seen in the table below.

PILs Proxies vs. Recoveries	2003	2004	2005	2006 partial
PILs Proxies in Rates	451,654	352,297	258,155	79,271
PILs Recovery Calculations	463,286	335,960	263,114	97,099
Difference	-11,632	16,337	-4,959	-17,828

Response 5a

We have reviewed in detail the available documents from 2004 and there do not appear to be any errors in the calculation and recording of PILS recovery [except for the minor correction referred to in IRR 5b].

We submit that the trend for the majority of distributors did not apply to NOTL's actual situation in 2004. For example, the billing determinants of kWh consumption for the residential and GS<50 kW classes were less in 2004 than in 2002 and 2003 (as shown in the 2006 EDR, in RRR 2.1.5 reports and in the 1562 filed evidence), and were also less than the 2001 statistics used to set the proxy in rates. Similarly, the 2004 kW demand data for the GS>50 kW class was less than in 2002 and 2003. The 2004 kW demand for the GS>50 kW class was greater than in the 2001 statistics used for the proxy, but not in such an amount that would cause the total recovery calculation for all classes to exceed the proxies in rates.

With regard to finding the underlying cause of declining determinants in that period, we have reviewed the evidence regarding load forecasts that were submitted with NOTL's 2009 COS application. This evidence included the following Table, showing a decrease in usage per customer for the residential and GS<50 kW classes in 2004:

1 From the historical usage per customer/connection data the growth rate in usage per
2 customer/connection can be reviewed which is provided on the following table. The
3 geometric mean growth rate has also been shown.

4 **Table 14**
5 **Growth Rate in Usage Per Customer/Connection**
6

Year	Residential	GS < 50kW	GS > 50kW	Street Lights	Sentinel Lights	Unmetered Load
Annual growth rate in usage per customer/connection						
2003						
2004	-3.0%	-1.6%	1.6%	2.1%	39.8%	0.0%
2005	9.0%	1.8%	-6.6%	5.8%	-19.0%	0.0%
2006	-8.1%	-11.5%	-3.9%	7.3%	5.6%	0.0%
2007	-0.1%	14.1%	1.0%	-13.4%	-17.4%	4.3%
Geometric Mean	-0.7%	0.3%	-2.0%	0.1%	-0.3%	1.1%

7 *The reason for a reduction in usage in 2004 could be due to weather, conservation behavior, tourism levels in Niagara-on-the-Lake that year, economic activity, etc. We are unable to determine the specific effects of such factors on the billing determinants in 2004. Nonetheless, we believe the PILS recovery calculations to be correct [except for the minor correction referred to in IRR 5b].*

Interrogatory 5b

- b) The billing determinant data for the Street Lights class used for PILs recovery is not consistent with the load forecast data contained in NOTL's 2006 EDR model as seen in the table below for the ten months in 2002. Please explain why the volumes shown as billed in 2002 are much lower than prorated actual volumes for the entire 2002 year.

Year	Billing Parameter	Billed Consumption in PILs Recovery	Statistics Filed in 2006 EDR	Prorated Statistics Filed 2006 EDR ¹	Difference
Mar - Dec 2002	kW's	234	1,393	1,161	-927
2003	kW's	2,436	2,417		19
2004	kW's	2,526	2,577		-51
2005	kW's	2,627	2,626		1
Jan - Apr 2006	kW's	896	2,644	881	15

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Response 5b

We have reviewed available documents from 2002 and filed in the 2006 EDR and have the following two findings:

1. *Statistic filed in 2006 EDR for 2002:*
 - *We have determined that 1,393 kW was the statistic reported in the RRR 2.1.5 filing for 2002 data, and which was used for the 2006 EDR filing. However, this amount seems low compared with amounts for the following years (e.g. 2,417 kW filed for 2003). Unfortunately, working papers from that time supporting the value 1,393 cannot be found.*
 - *It would seem that a pro-rated statistic more in the order of magnitude of say $2,400/12 \times 10 = 2,000$ would be a more appropriate comparator for 2002.*
2. *Billed Consumption in PILs recovery:*
 - *The 1562 application copied data from a spreadsheet that was created in 2002 to calculate the 2002 PILs recovery at that time.*
 - *We have now found that there was a manual data entry error in the 2002 spreadsheet, which caused the billed consumption calculation to be lower than it should have been.*
 - *The value 234 kW in the 1562 application has now been recalculated and should have been 1,802 kW.*
 - *This value of 1,802 kW appears more in line with the comparator mentioned in 1) above.*

As a result of these findings, the necessary adjustments to the PILs recovery calculations have been made and a revised PILS continuity schedule is filed per IR 5c.

Interrogatory 5c

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¹ 2002 was a partial collection year from March 1, 2002 to December 31, 2002. 2006 was a partial collection year from January 1, 2006 to April 30, 2006. The statistics filed in 2006 EDR was for the full year. Billing determinants were prorated for 10 months in 2002 and 4 months in 2006.

- c) If there are any adjustments that need to be made to the PILs recovery calculations, please update and file the revised PILs continuity schedule in Excel format.

Response 5c

NOTL is submitting a revised summary of the PILS recovery calculations, and all submitted continuity schedules reflect the response to IR5b.

Specifically, NOTL is submitting PILS models for the following scenarios, in which all errors referred to in the various responses have been corrected:

- *Scenario X per IRR 1c - Maximum tax rates, same as submission on February 29, 2012:*
- *Scenario A per IRR 1c - minimum tax rates*
- *Scenario B per IRR 1d - hybrid tax rate calculation*

Interrogatory 6

Reference: Tax Returns and Notices of Assessment Tax Years – Statute-barred

6) Please confirm that all tax years from 2001 to 2005 are now statute-barred.

Response 6

NOTL confirms that all tax years from 2001 to 2005 are now statute-barred.