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July 23, 2012

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

Attention: Kirsten Walli
Board Secretary

Re: Haldimand County Hydro Inc. (EB-2012-0027)
Application for the Disposition of Account 1562 Deferred PILs
Reply Submission

Dear Ms. Walli:

Haldimand County Hydro Inc. filed an application with the Ontario Energy Board (the "Board") on January 27, 2012 seeking approval for the disposition of account 1562 Deferred Payments in Lieu of Taxes ("PILs") to be effective May 1, 2012.

Pursuant to Procedural Order No. 2, issued June 22, 2012, Board staff filed its written submission on July 10, 2012. Haldimand County Hydro is required to file its written response by July 24, 2012.

Two hard copies of Haldimand County Hydro's Reply to the Board staff Submission are now enclosed. An electronic copy in PDF format will be submitted through the Board's *Regulatory Electronic Submission System* ("RESS").

Yours truly,
HALDIMAND COUNTY HYDRO INC.

Original signed by
Sherry Graham on behalf of

Jacqueline A. Scott
Finance Manager

IN THE MATTER OF the Ontario Energy Board Act, 1998,
being Schedule B to the Energy Competition Act, 1998,
S.O. 1998, c.15;

AND IN THE MATTER OF an Application by Haldimand
County Hydro Inc. to the Ontario Energy Board for an
Order or Orders approving or fixing just and reasonable
rates for the disposition of Account 1562 Deferred
Payments in Lieu of Taxes ("PILs") as of May 1, 2012.

HALDIMAND COUNTY HYDRO INC.

REPLY SUBMISSION

FILED JULY 23, 2012

Introduction

Haldimand County Hydro Inc. ("HCHI") filed an application (the "Application") with the Ontario Energy Board (the "Board") on January 27, 2012, under section 78 of the *Ontario Energy Board Act, 1998*, seeking approval for the disposition of account 1562 Deferred Payments in Lieu of Taxes ("PILs") to be effective May 1, 2012. HCHI applied to collect from its customers a debit balance of \$1,008,852 consisting of a principal debit amount of \$808,242 and related carrying charges debit amount of \$200,610. The PILs evidence filed by HCHI includes tax returns, financial statements, calculations of amounts recovered from customers, spreadsheet implementation model for PILs ("SIMPIL") excel models and continuity schedules that show the principal and interest amounts in the account 1562 Deferred PILs balance requested for disposition.

As part of the interrogatory phase, Board staff prepared revised SIMPIL models and account 1562 Deferred PILs continuity schedules that Board staff believes conforms

with the various decisions related to PILs issues. Board staff calculated that a refund to ratepayers of \$873,986 consisting of a principal credit amount of \$718,244 and related carrying charges credit amount of \$155,742. Board staff provided these revised models to HCHI and asked for HCHI's comments.

On June 25, 2012, HCHI replied to the Board staff interrogatories and updated its evidence resulting in a reduced debit balance of \$528,407 consisting of a principal debit amount of \$291,759 and related carrying charges debit amount of \$236,648. In reply to interrogatories, HCHI stated the following regarding its calculations of the revised balance in Account 1562 Deferred PILs:

- 1) As originally filed, interest true-up variances continue to be calculated using the Board-approved maximum deemed interest.
- 2) Actual changes in regulatory assets and liabilities as contained in the tax returns were now entered onto the TAXREC3 worksheet to avoid PILs true-ups to ratepayers to comply with Board decisions in other cases.
- 3) Consistent with the change directed by Board staff in item 2, the "initial estimate" (i.e. 2002 PILs proxy amount) regulatory adjustments were similarly corrected for on the TAXCALC worksheet to remove the true-up effect to ratepayers.
- 4) Gains and losses on disposals of capital assets and capital items expensed were now entered on the TAXREC3 worksheet to comply with Board decisions in other cases.
- 5) Income tax rates to calculate the tax impact and the grossed-up tax amounts comply with the Board's decision (EB-2008-0381).
- 6) As originally filed, recording of the 2001 Deferred and 2002 PILs Proxy amounts in equal monthly installments commenced in October 2001 and January 2002 respectively; that is, prior to the June 1, 2002 start date proposed by Board staff.
- 7) In its original Application, HCHI was requesting disposition of account 1562 Deferred PILs over a one year rate period effective May 1, 2012, which included carrying charges projected to April 30, 2012. As that date had now passed,

HCHI revised its request for disposition over an 8 month period to commence September 1, 2012, which included carrying charges projected to August 31, 2012.

Submission

HCHI received the Submission from Board staff on July 10, 2012. There are 2 issues that Board staff has addressed in its Submission:

- HCHI's input of its Board-approved 2002 PILs Proxy by entering the regulatory adjustment amounts on rows in the SIMPIL model (TAXCALC) that do not true-up to ratepayers; and
- The start date for recording the 2001 Deferred and 2002 PILs Proxy entitlements.

Issue 1: Input of Board-approved 2002 PILs Proxy regulatory adjustments as amounts that do not true-up to ratepayers

The Board staff Submission, at page 5, includes the following:

"HCHI altered the input of its Board approved PILs proxy by entering the regulatory assets and liability amounts on rows in the SIMPIL models that do not true-up...Board staff submits that the data related to the PILs proxy as approved by the Board in 2002 should be entered on the same lines as HCHI entered the data in its 2002 application to calculate correctly the revised balance in the account 1562 PILs Excel continuity worksheet for disposition to ratepayers."

HCHI has not altered its Board-approved 2002 PILs Proxy amount, but has altered only its SIMPIL Model entries regarding the true-up effect of the regulatory adjustments contained therein in accordance with its understanding of the Board's decision in the combined proceeding. HCHI respectfully reiterates its response to Board staff interrogatory #6(a) and #10(b) on page 11 and 20 respectively of its IRRs, as follows:

“Haldimand County Hydro’s accounting treatment, which is in accordance with the generally accepted accounting principles for regulated enterprises, requires that regulatory assets be included in income. Accordingly, the starting point for our calculations is accounting income for regulatory purposes. Each year this accounting income includes the change in regulatory assets and liabilities. In order to exclude the regulatory assets from income for purposes of calculating the addition to Account 1562, it is necessary to deduct these amounts to arrive at the taxable income base for purposes of applying the PILS calculations.

In order to make this deduction, it was necessary to include the regulatory assets and liabilities on the “Tax Rec” worksheet and then have it carry forward to the “TAXCALC” worksheet as a true-up adjustment. The effect of this was to remove the regulatory assets from the taxable income for purposes of the PILS calculation in Account 1562.

In the case of a regulatory asset, the adjustments that Haldimand County Hydro has undertaken have resulted in a decrease (i.e. a credit) to the Account 1562 asset balance.

We have used this approach consistently since the introduction of the Account 1562 Deferred PILs. The original Board guidelines to the SIMPIL models issued sometime prior to 2005 stated that “true-up adjustments include regulatory additions and deductions”. It was this guideline that Haldimand County Hydro used to determine its initial approach to the annual changes in regulatory assets and liabilities.

Haldimand County Hydro also believes that its approach is consistent with issue 4 (page 8) of the Settlement Agreement with respect to the Combined PILs Proceeding (EB-2008-0381), which states:

A PILs or tax provision is not needed for the recovery of deferred regulatory asset costs, because the distributors have deducted, or will have deducted, or will deduct, these costs in calculating taxable income in their tax returns.

Haldimand County Hydro removed regulatory assets in arriving at the base taxable income for purposes of the PILS calculations.

Accordingly, Haldimand County Hydro believes that it has fully complied with the Board's guidelines with respect to changes in regulatory assets as they relate to the disposition of account 1562 Deferred PILS applications.

If the Board takes the position that the regulatory assets should not be trued-up for each of the years 2002 through 2005, than [sic] Haldimand County Hydro requires a further adjustment. Each of the SIMPIL models for 2002 through 2005 in the "TAXCALC" worksheet includes: (i) an addition to taxable income in the amount of \$214,577, and (ii) a deduction from taxable income in the amount of \$34,503. Both of these amounts are "transition cost" regulatory adjustments. When regulatory assets were trued-up for tax purposes, these amounts were shown as the amounts in the initial estimate of regulatory assets. It is then necessary to remove these amounts from the true-up calculations, and the removal must apply for all years from 2002 through 2005 inclusive."

If the regulatory adjustments are not moved to the row in the SIMPIL model that is designed to include amounts that are not to be trued up then they will true-up by default. This would be contrary to the Board staff position that regulatory assets should not be trued up. For example, in Board staff's version of the SIMPIL models ("OEB Model") received on June 4, 2012, the regulatory adjustments are causing a true-up in each of the years 2002 through 2005 inclusive. In 2002, for example, the OEB Model shows a true-up on the "TAXCALC" worksheet at line 105 of \$214,577 and at line 111 of \$34,503. This is a true-up of regulatory assets which is contrary to Board staff's

position that regulatory assets should not be trued up. In fact, this is not the real true-up amount since the actual closing regulatory assets are not entered which creates the illusion that closing regulatory assets are nil.

In order for this anomaly to be eliminated it is necessary to include these regulatory adjustments in a “no true-up” cell in the SIMPIL model.

The OEB Model has artificially created these true-up amounts of \$214,577 and \$34,503 for each of the years 2002 through to 2005 inclusive on the same regulatory item. This has caused the 2002 anomaly to appear four times in total accounting for the entire true-up adjustment in the OEB Model. In other words, the OEB Model has a true-up adjustment in each of the years 2002 through 2005 inclusive as a result of the existence of regulatory adjustments in the “Initial Estimate” column. HCHI believes this is contrary to Board staff’s position that regulatory assets should not be trued up.

If Board staff does not accept that the OEB Model for each of the years 2002 through 2005 are trueing up regulatory assets (albeit incorrectly) then HCHI asks that Board staff explain what is causing the “True-up Variance Adjustment” in each of the years 2002 through 2005 inclusive.

Issue 2: The start date for recording the 2001 Deferred and 2002 PILs Proxy entitlements

The Board staff Submission, at page 6, includes the following:

“In its PILs 1562 continuity schedule, HCHI recorded its entitlement to the 2001 PILs Proxy starting on October 1, 2001 and the 2002 PILs proxy on January 1, 2002 which is consistent with the APH. However, due to amended application for rate adjustments, and its inability to meet the date of market opening for billing unbundled rates, the implementation date of the 2002 rates including the 2001 and 2002 proxies was delayed beyond May 1, 2002.

Board staff suggested in interrogatories that the PILs proxies should not be entered in the continuity schedule until June 1, 2002 or later since HCHI did not inform the Board of its capability of billing unbundled rates until June 21, 2002.

The Board has issued recent decisions in 2011-2012 applications that determined start dates later than October 1, 2001 for recording the PILs proxies in the continuity schedule to recalculate the account 1562 PILs balance to be disposed. The distributors' unique facts were considered by the Board in determining the date that the PILs proxy entitlements would be entered into the Excel PILs 1562 continuity schedule.

Board staff submits that the earliest date to start recording the PILs proxies based on the Board's prior decisions for HCHI is June 1, 2002. Board staff submits that July 1, 2002 is also a plausible date based on the evidence filed by HCHI.

Board staff submits that on June 21, 2002 HCHI advised the Board of its ability to invoice its customers, and that June 21, 2002 became the effective date of the Board's interim rate order for fully unbundled rates rather than May 1, 2002 as interpreted by HCHI."

HCHI filed a letter, dated March 14, 2002, asking the Board for the contingency rate arrangement with respect to its rates effective May 1, 2002 in anticipation of not being capable of billing fully unbundled rates by the date of market opening, May 1, 2002. In the Board's Decision and Order (RP-2002-0082/EB-2002-0301) the Board approved HCHI's rates in effect as of April 30, 2002 shall remain in effect until the date established by notification to the Board that HCHI is capable of generating the fully unbundled rates or August 1, 2002. The Board's Decision and Order (RP-2002-0082/EB-2002-0091) dated June 12, 2002 declared HCHI's rates interim as of April 1, 2002. Further, and as noted by the Board in its Decision regarding the contingency rate

arrangements, *“The Board is prepared to allow the implementation of the unbundled bills in the same manner as was outlined in its letter of April 23, 2002 adjusted to the post May 1, 2002 implementation date”*.

Accordingly, HCHI does not agree with Board staff that June 21, 2002 became the effective date of the Board’s interim rate order for fully unbundled rates. As provided by HCHI in response to Board staff interrogatory #2, *“Haldimand County Hydro issued the first invoice to interval customers using these unbundled rates on bills dated July 18, 2002 which represented the consumption read period for the month of May 2002. Haldimand County Hydro issued the first invoice to non-interval customers using these unbundled rates commencing with bills dated June 28, 2002 which represented the full 30-day consumption read period commencing after May 1, 2002.”*

HCHI does not consider the Board staff’s PILs proxy start dates of either May 1, 2002 or June 21, 2002 to be consistent with either the Board’s Decision in HCHI’s 2002 rate application or the Board’s Decision in the combined proceeding. HCHI respectfully reiterates its response to Board staff interrogatory #4(a), including:

“Haldimand County Hydro has followed the Board’s direction regarding amounts reported in account 1562 and, in particular, recording the 2001 and 2002 PILs proxy amounts in the continuity schedule prior to June 1, 2002. The Board’s Accounting Procedures Handbook, Article 220 “1562 Deferred Payments in Lieu of Taxes” states:

“A. This account shall record the amount resulting from the Board approved PILs methodology for determining the 2001 Deferral Account Allowance and the PILs proxy amount determined for 2002 and subsequent years. The amount determined using the Board approved PILs methodology will be recorded equally over the applicable PILs period. The 2001 PILs Deferral Account Allowance should be recorded in

three equal installments in October, November and December for utilities with a December 31, 2001 taxation year end. For a full year each applicable proxy will be divided by 12, and a monthly amount should be posted for each applicable period.”

Haldimand incurred the 2001 PILS tax amount of \$334,927 as a result of its becoming a taxable entity on October 1, 2001. These amounts need to be recovered from rate payers. Hence, the amounts were included in the Account 1562 balance as a debit during the 2001 year, accrued in 3 equal monthly installments of \$111,642 commencing October 2001. Similarly, for the 2002 PILs tax amount, Haldimand County Hydro incurred this tax liability for the 2002 year and is required to include this amount of \$1,096,347 in 12 equal monthly installments of \$91,362 commencing January 2002 in Account 1562 in order that the 2002 PILS proxy amount can be recovered through the rate adjustments.”

In Board staff's submission dated July 10, 2012, it was suggested that the PILs taxes assessed by the Ministry of Finance were exceeded by the PILs amounts collected from rate payers for the years 2001 through 2002 (see table on page 9 of Board staff submission). With respect, the reasons for this difference are varied and depend on a number of factors which have been disregarded for purposes of current Board staff interpretation of the SIMPIL model.

One of the most significant reasons for the difference is the adjustment for regulatory assets and liabilities in arriving at taxable income which has been removed for all PILs rate submission calculations. As a result, the comparison in Board staff's table of actual PILs collected from customers versus the PILs paid to the Ministry of Finance for the years in question is not a useful comparison.

HCHI believes that Board staff prepared this table of PILs taxes assessed versus PILs collected in response to HCHI's reply to Board staff interrogatory #4(a) (restated above)

that since becoming a taxable entity on October 1, 2001 HCHI was subject to full PILs tax for the three months of 2001 and the twelve months of 2002 and expected to be able to pass this cost on to its rate payers. HCHI stands by its position that it was required to pay the PILs tax for this period and should be able to recover it from its rate payers. The PILs tax was not reflected in rates prior to market opening and had not yet been recovered.

In accordance with the directions and various decisions of the Board and as fully supported in the evidence, HCHI continues to request to dispose of the account 1562 Deferred PILs debit balance amount of \$528,407, recovering the balance from customers over an 8 month period commencing September 1, 2012.

All of which is respectfully submitted.