



EB-2012-0061

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 Veridian
Connections Inc. for an order or orders to dispose
Account 1562 – Deferred Payments in Lieu of Taxes
("Deferred PILs").

BEFORE: Cynthia Chaplin
Vice Chair and Presiding Member

Ken Quesnelle
Member

DECISION AND ORDER

November 8, 2012

Background

On June 24, 2011, the Board issued its Decision on the Combined PILs proceeding EB-2008-0381 ("Combined PILs Decision"). The Board indicated that the remaining distributors will be expected to apply for final disposition of Deferred PILs with their next general rates application, either incentive regulation mechanism ("IRM") or cost of service.

The Board also indicated in the Combined PILs Decision that if the distributor files evidence in accordance with the various decisions made in the course of the Combined PILs proceeding, including the use of the updated SIMPIL¹ model, the determination of the final account balance will be handled expeditiously and in a largely administrative

¹ Spreadsheet implementation model for payments-in-lieu of taxes

manner. However, if a distributor files on a basis which differs from what is contemplated by the Combined PILs Decision, the application can take some time to process, and therefore should not be included in an IRM application.

Veridian Connections Inc. ("Veridian") did not file its Deferred PILs claim as part of its 2012 IRM application (EB-2011-0199), dated October 14, 2011. Veridian noted that its circumstances relating to Account 1562 deviate from those addressed in the Combined PILs proceeding due to the impacts of a corporate merger and a number of acquisitions that would affect the account balances.

The Board accepted Veridian's rationale for not proposing disposition of Account 1562 in its 2012 IRM application. The Board indicated that it would consider disposition of the account on a stand-alone basis in a separate application which Veridian was expected to file by no later than April 1, 2012.

The Application

Veridian filed its stand-alone Deferred PILs application on May 1, 2012. Veridian proposed a one-year disposition period effective September 1, 2012. The Board assigned the application file number EB-2012-0061.

Notice of Veridian's rate application was given through newspaper publication in Veridian's service areas advising interested parties where the rate application could be viewed and advising how they could intervene in the proceeding or comment on the application. Veridian's service areas include Ajax, Pickering, Belleville, Brock, Uxbridge, Scugog, Clarington, Port Hope and Gravenhurst. One letter of comment was received. No letters of intervention were received. Board staff participated in the proceeding. The Board proceeded by way of a written hearing.

The Deferred PILs evidence filed by Veridian in this proceeding includes tax returns, financial statements, Excel models from prior applications, calculations of amounts recovered from customers, SIMPIL Excel worksheets and continuity schedules that show the principal and interest amounts in the Deferred PILs balance. In pre-filed evidence Veridian applied to recover from customers a debit balance of \$320,243 consisting of a principal debit amount of \$58,930 plus related carrying charges of \$261,313.

In response to Board staff interrogatories, Veridian revised the requested final balance for disposition in Account 1562 to a credit balance of \$233,004 consisting of a principal credit amount of \$357,352 plus related debit carrying charges up to August 31, 2012 of \$124,348.

In its reply submission, Veridian made a number of further adjustments in response to some of Board staff's submission. Veridian's final amount requested for disposition is a credit balance of \$360,986 consisting of a principal credit amount of \$452,563 and carrying charge debit amount of \$91,577.

Gravenhurst Hydro PILs Entitlements from October 1, 2001 to May 31, 2002

In its Deferred PILs continuity schedule, Veridian recorded its entitlement to the 2001 PILs proxy starting on October 1, 2001 and the 2002 PILs proxy on January 1, 2002 for the Gravenhurst service area.

In its submission, Board staff noted that since Gravenhurst Hydro delayed filing its 2002 application until April 17, 2002, the effective date of the 2002 rates including the 2001 and 2002 proxies was delayed to June 1, 2002. Board staff questioned whether the Board-approved accounting guidance for distributors following the standard application timing should not apply.

Board staff submitted that the PILs proxy should be pro-rated for the period from June 1, 2002 to March 31, 2004. The sum of the 2001 PILs proxy of \$63,992 and the 2002 PILs proxy of \$328,177 is \$392,169. The rates were determined based on a twelve month rate year which implies a monthly PILs proxy amount of \$32,681 ($\$392,169/12$) for the 22 months. Using this monthly entitlement, Board staff calculated that the total for the period shown is \$718,976 ($\$32,681 \times 22$). Board staff noted that Veridian Gravenhurst recorded \$870,381 for the same time period in its continuity schedules.²

Board staff submitted that this alternative of calculating the PILs proxy with effect from June 1, 2002 is equitable to the ratepayers and to the shareholder. Board staff noted that this alternative is consistent with decisions already made by the Board.³

² Veridian_rev_Gravenhurst_ED Disposition 1562 Balance_20120831.xls/ Tabs F1.1, F1.2, F1.3, F1.4

³ Board Decisions: Thunder Bay Hydro Electricity Distribution, EB-2012-0212; St. Thomas Energy Inc., EB-2012-0248

Board staff also requested that Veridian file a revised PILs continuity schedule for Gravenhurst Hydro with pro-rated PILs proxy entitlements from June 1, 2002 and final balance in Excel format as one alternative scenario for the Board to consider.

Veridian argued that it would not be appropriate to follow Board staff's methodology which pro-rates the Board approved PILs proxy but does not adjust the billing determinants for 2002 recoveries of such proxy. Veridian proposed that if Board staff's proposed adjustments to the PILs entitlement were to be accepted by the Board, an adjustment to the 2002 billing determinants would also be required so that seven twelfths (7 months out of 12) of the annual billing determinants, representing recoveries in rates from June 1 to December 31, 2002, would be used. Veridian noted that based on their methodology, Gravenhurst Hydro's PILs recoveries would be reduced from \$361,430 to \$252,633.

Board Findings

The Board finds that it is appropriate to determine the PILs entitlement from the date of rates, namely June 1, 2002. This finding is consistent with the Board's decisions for other distributors with similar fact situations. The Board agrees with Veridian that it is appropriate to adjust the annual billing determinants for the same period. The Board notes that interest carrying charges will be affected by starting the calculations at June 1, 2002. The Board directs Veridian to reflect these findings in a draft rate order as specified in the order section below.

Income Tax Rates

The SIMPIL models require income tax rates to be input in order to calculate the true-up and deferral account variances that support some of the entries in Account 1562. These income tax rates are entered on sheet TAXCALC by the applicant.

In response to Board staff interrogatory #2a, Veridian provided the calculations and explanations of the income tax rates used for the Gravenhurst service area. Veridian also used the minimum income tax rates as shown on page 17 of the Board's Combined PILs Decision for the purpose of true-up calculations for Scugog Hydro.

Board staff submitted that the minimum income tax rates as shown in the Board's decision in the Combined PILs proceeding on page 17 are reasonable alternatives since

Gravenhurst Hydro's 2001 rate base was below \$10 million. Board staff also submitted that the minimum income tax rates used for Scugog Hydro are appropriate. Board staff further submitted that the maximum income tax rates are appropriate for Veridian's main service area.

In its submission, Board staff also introduced an additional scenario as an alternative for Veridian to consider. A regulatory approach would use rate base as the proxy for taxable capital, regulatory taxable income from applications for the 2001 fourth quarter, 2002 and 2005 and the tax return forms for 2001 through 2005 to calculate the blended income tax rates. For 2003 and 2004, the 2002 regulatory taxable income would be used. Board staff submitted that rate base should be used as the proxy for taxable capital along with regulatory taxable income to be internally consistent. Board staff submitted that a consistent approach would be more appropriate for the income tax rate calculations.⁴

Board staff requested that Veridian file for Gravenhurst the active income tax rate calculations, SIMPIL models for 2001 to 2005 and a PILs continuity schedule under the regulatory approach described in the paragraph above to assist the Board in considering the evidence in this case.

In its reply submission, Veridian complied with Board staff's request for calculations and provided the updated calculations of effective income tax rates for Gravenhurst Hydro, which can be seen in the table below:

Year	Effective Tax Rate as Filed	Revised Effective Tax Rate
2001	34.12%	30.80%
2002	34.12%	33.10%
2003	31.87%	30.90%
2004	31.87%	28.51%
2005	36.12%	27.72%

Board Findings

The Board finds that the income tax rates calculated by Veridian for Gravenhurst using the regulatory approach proposed by Board staff are appropriate. This method of determining the appropriate effective tax rate is consistent with the methodology used

⁴ Board Decisions: Centre Wellington, EB-2012-0052; Brant County Power Inc. EB-2011-0425.

by the Board for other distributors. The Board notes that Veridian's reply submission indicates that its final proposed balance for approval incorporates these rates; however, it is not clear from the supporting documentation that this has been done accurately. The Board directs Veridian to use these tax rates to determine the tax impact for the true-up and deferral account calculations in the revised SIMPIL models. The tax gross-up calculations require the subtraction of 1.12% consistent with the Decision in the Combined PILs proceeding.

Veridian 2005 LCT True-up Variance

The federal LCT was repealed retroactively in 2006 with effect from January 1, 2006. However, the 2005 and 2006 rates contained LCT since the repeal occurred after the Board's decisions were issued. Distributors have to account for the refund to ratepayers and were instructed to use both Account 1562 and Account 1592 for this purpose.

Board staff submitted that Veridian should confirm if the repeal of the LCT was included in the continuity schedule of Account 1562 for the period January 1, 2006 to April 30, 2006 in accordance with Frequently Asked Questions, dated July 2007. Board staff also requested that Veridian confirm that four twelfths (4 months out of 12) of the 2005 LCT amount of \$125,767 was recorded as an adjustment. If this credit variance has not been included in Veridian's continuity schedule in 2006, Board staff submitted that Veridian should enter the amount in the Excel schedule or add the amount to the total refund to be made to customers.

Veridian in its review of Board staff submission discovered that this variance had not been included in the Veridian PILs continuity schedule of Account 1562. Veridian filed an updated PILs continuity schedule to include this credit variance amount.

Board Findings

The Board accepts the adjustment and update provided by Veridian.

Interest Charges

Veridian proposed to dispose of interest charges to April 30, 2012 for the Scugog service area and to August 31, 2012 for the Veridian and Gravenhurst service areas.

Board Findings

The Board finds that interest charges should be calculated to December 31, 2012, and that the balance for disposition should be adjusted accordingly.

Rate Rider Refund Period

In its submission, Board staff requested Veridian to recommend the number of months over which it would prefer to refund the balance to be approved by the Board.

Veridian proposed a rate rider effective January 1, 2013 for a period of four months to April 30, 2013. Veridian provided updated rate rider calculations based on the proposed effective date and period.

Board Findings

The Board finds that the proposed disposition period of four months is appropriate.

THE BOARD ORDERS THAT:

1. Veridian shall file with the Board, and shall also forward to VECC, a draft Rate Order attaching a proposed Tariff of Rates and Charges reflecting the Board's findings in this Decision and Order, within 7 days of the date of this Decision and Order. The draft Rate Order shall also include customer rate impacts and detailed supporting information showing the calculation of the final rates. Active Excel workbooks for the SIMPIL models, disposition continuity schedules, and any other calculations that support the draft Rate Order shall be filed.
2. Board staff shall file any comments on the draft Rate Order with the Board and forward to Veridian within 7 days of the date of filing of the draft Rate Order.
3. Veridian shall file with the Board responses to any comments on its draft Rate Order within 5 days of the date of receipt of the submission.
4. Veridian shall pay the Board's costs incidental to this proceeding upon receipt of the Board's invoice.

All filings to the Board must quote file number **EB-2012-0061**, be made through the Board's web portal at, <https://www.pes.ontarioenergyboard.ca/eservice/> and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.ontarioenergyboard.ca. If the web portal is not available parties may email their document to BoardSec@ontarioenergyboard.ca. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 2 paper copies.

DATED at Toronto, November 8, 2012

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary