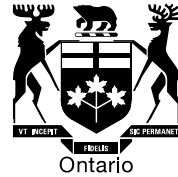


**Ontario Energy  
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**BY E-MAIL**

March 27, 2014

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street, 27th Floor  
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Niagara-on-the-Lake Hydro Inc.  
2014 Electricity Distribution Rates  
Board Staff Submission  
Board File No. EB-2013-0155**

Please find attached Board staff's submission on the filed settlement proposal and the unsettled issue for Niagara-on-the-Lake Hydro Inc.'s 2014 cost of service rate application. This document is also being forwarded to Niagara-on-the-Lake Hydro Inc. and to the Vulnerable Energy Consumers Coalition and Energy Probe.

Yours truly,

*Original Signed*

Stephen Vetsis  
Analyst – Electricity Rates and Prices

Encl.

**2014 ELECTRICITY DISTRIBUTION RATES**  
**Niagara-on-the-Lake Hydro Inc.**

**EB-2013-0155**

**BOARD STAFF SUBMISSION**

**March 27, 2014**

## **INTRODUCTION**

Niagara-on-the-Lake Hydro Inc. (“NOTL Hydro”) filed a complete application (“the Application”) with the Ontario Energy Board (the “Board”) on September 30, 2013 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), seeking approval for changes to the rates that NOTL Hydro charges for electricity distribution, to be effective May 1, 2014.

Pursuant to Procedural Order No. 3, a Settlement Conference was convened on February 19, 2014 and continued on February 20, 2014. A Settlement Proposal was filed with the Board on March 22, 2014. A settlement was reached between NOTL Hydro, VECC and Energy Probe on all issues except for one. Parties indicated that they were unable to agree whether balances recorded in Account 1535 – Smart Grid OM&A Deferral Account were eligible for recovery. Parties agreed that an interpretation of the eligibility requirement by the Board was required to resolve this matter.

Pursuant to Procedural Order No. 4, this submission reflects observations which arise from Board staff’s review of the evidence, the Settlement Proposal and the unsettled issue, and is intended to assist the Board in deciding upon NOTL Hydro’s application with respect to the issues laid out in the Settlement Proposal and in setting just and reasonable rates.

Board staff notes that there have been a number of updates to the evidence in the course of this proceeding. This submission is based on the status of the record as of NOTL Hydro’s Settlement Proposal.

### **Settlement Proposal**

Board staff has reviewed the Settlement Proposal in the context of the objectives of the Renewed Regulatory Framework for Electricity, other applicable Board policies, relevant Board decisions, and the Board’s statutory obligations. While the parties considered the issues and NOTL Hydro’s planning in the limited context of the test year, Board staff is of the view that the Settlement Proposal reflects a reasonable evaluation of the distributor’s planned outcomes in this proceeding, and appropriate consideration of relevant issues. This is the first

year of implementation for the Renewed Regulatory Framework for Electricity, and Board staff took this into consideration in assessing the Settlement Proposal.

Board staff submits that the Board's approval of the Settlement Proposal as filed would adequately reflect the public interest and would result in just and reasonable rates for customers.

### **Balance in Account 1535 – Smart Grid OM&A Deferral Account**

In the Application, NOTL Hydro requested approval to recover costs associated with smart grid investments. NOTL Hydro requested that the net book value of \$237,952, reflecting capital costs related to capital expenditures in Account 1534 – Smart Grid Capital Deferral Account, be included in NOTL Hydro's test year rate base. Additionally, NOTL Hydro requested approval to recover a \$133,025 debit balance in Account 1535 – Smart Grid OM&A Deferral Account. Per NOTLS's submission and the Application, costs in Account 1535 included \$84,585 in OM&A expenses for demonstration projects, \$44,242 in accumulated depreciation for the assets included in Account 1534 and \$4,198 in interest to April 30, 2014.

In the Settlement Proposal, parties agreed to add the net book value of the capital costs in Account 1534 to rate base for the 2014 test year. Board staff has no issue with this approach as the assets are currently used and useful and they have been installed to address a reliability concern in NOTL Hydro's service area.

Based on the evidence, it appears that the costs in Account 1535 are mainly related to two demonstration projects: (i) the installation of smart switches in the Old Town area and (ii) the completion of a residential behind-the-meter load control pilot project. Each project is discussed separately below. NOTL's submission provided detailed discussion on the Old Town project. There was no discussion on the load control project, but based on the evidence it appears that the \$46,000 load control project is included in the \$84,585 in OM&A expenses for demonstration projects.

(i) Smart Switch Installation in Old Town area

NOTL Hydro stated that the Old Town area of Niagara-on-the-Lake is currently supplied by two 27.6kV feeders. NOTL Hydro noted that the feeders had been “susceptible to animal contacts and lightning, etc. as they pass through a predominantly rural area.” NOTL Hydro stated that it installed smart switches that would effectively transfer the Old Town supply to the alternative feeder in seconds when automatically it is determined that the fault is not present in the Old Town. The switches were integrated into NOTL Hydro’s SCADA system to provide intelligence and load information.

When asked to comment on the view that the installation of switches to transfer Old Town supply to another feeder to address reliability issues is not new and is part of the ongoing responsibility of any distributor to investigate and address such issues, NOTL stated:

At the time when we decided to proceed with the installation of the Old Town Smart Switch arrangement, we had been inspired by the Energy Minister’s Green Energy vision and prompted by the OEB’s creation of Green Energy/Smart Grid variance accounts. We carefully studied the criteria established for the variance accounts and were convinced that the project qualified and we were advancing the Smart Grid public policy established by the government. In 2010, the switches were considered leading edge and utilized smart grid technology to solve a complex situation. Upon completing the system installation in 2011, NOTL Hydro was invited (and accepted) to speak at a North American technical conference in Montreal hosted by Hydro Quebec and share our experience with the audience. We also note that this project was recognized by Canada Revenue as a valid Science Research and Experimental Data (SRED) project in a 2012 application for a SRED tax credit.

NOTL Hydro noted that the initiative qualified for the SRED tax credit as an “Experimental development” with the purpose “to achieve technological advancement for the purpose of creating new or improving existing materials, devices, products or processes”.

Page 26 of the *Filing Requirements: Distribution System Plans – Filing Under Deemed Conditions of License (EB-2009-0397)* (“the Filing Requirements”), dated May 17, 2012, states:

The Board is currently limiting amounts that can be recorded in the “Smart Grid Capital Deferral Account” and the “Smart Grid OM&A Deferral Account” to expenditures associated with the following activities:

- Smart grid demonstration projects;
- Smart grid studies and planning exercises; and
- Smart grid education and training.

Board staff agrees with NOTL Hydro that the eligibility of the smart grid projects identified should be based on the policy that was in effect when the investments were made. However, Board staff notes that eligibility for funding for smart grid investments at that time was limited to demonstration projects and the costs for any associated studies, planning exercises and education/training activities. While the installation of the smart switches may be considered a smart grid project, based on the descriptions provided by NOTL Hydro in the evidence and in its submission, Board staff does not believe that there is sufficient rationale that the project identified can be considered a demonstration project and therefore no operating expenses or depreciation related to the project should be recoverable.

In the Application, NOTL Hydro identified reliability issues with the feeders serving the Old Town area and stated that it pursued and implemented a solution to that problem. While NOTL Hydro’s success with the implementation of the smart switches is commendable, it has not shown that the smart switch assets would warrant the unique regulatory treatment provided in the Filing Requirements.

NOTL Hydro also noted that its smart switch project was recognized by Revenue Canada for a SRED tax credit. The Canada Revenue Agency website states that “the SRED Program is a federal tax incentive program, administered by the

Canada Revenue Agency (CRA), that encourages Canadian businesses of all sizes, and in all sectors to conduct research and development (R&D) in Canada.”<sup>1</sup> Page 20 of the Filing Requirements specifically states that “the Board does not expect distributors to be engaging in research and development activities at this time.”

Based on the above, Board staff submits, consistent with the Filing Requirements, that the Board should not approve the recovery of any of the OM&A expenses and associated depreciation in Account 1535 related to the installation of smart switches, as the underlying capital expenditures in Account 1534 do not meet the limited eligibility criteria that were in place at the time the project was completed.

(ii) Residential Behind-the-Meter Load Control Project

On page 20 of Exhibit 9, Tab 2, Schedule 1 of the Application, NOTL Hydro indicates that \$46,000 of the balance in Account 1535 was for the unfunded portion of a residential load control pilot project, partially funded by the OPA. On page 29 of NOTL Hydro’s consolidated Distribution System Plan (“DSP”), NOTL Hydro provides the following description of the purpose and nature of the residential load control project:

A “behind-the-meter” residential load control pilot project, sanctioned and partially funded by the OPA, was conducted in 2010. The pilot provided valuable insight into equipment capabilities and customer expectations that was shared with the province through a Navigant consulting report released in 2011.

On page 20 of the Filing Requirements, the Board states that “the Board is aware that the work has been and is being done in Ontario and in other jurisdictions (most notably the United States) regarding smart grid development. The Board expects that distributors will, prior to making smart grid related expenditures,

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<sup>1</sup> <http://www.cra-arc.gc.ca/txcrdt/sred-rsde/menu-eng.html>. “Scientific Research and Experimental Development Tax Incentive Program.” Accessed on March 26, 2014.

familiarize themselves with that work to ensure that efforts are not being unnecessarily duplicated.”

NOTL Hydro’s Application, responses to interrogatories and submission have not provided sufficient clarity on whether any attempts have been made to avoid duplication or research demonstration projects undertaken in Ontario or in other jurisdictions or whether all costs included are incremental to what was in NOTL’s rates. NOTL Hydro has not provided any details regarding the funding provided by the OPA, any joint participation agreements nor any of the other items of information listed on pages 20 and 21 of the Filing Requirements. As such, Board staff is unable to assess the prudence of the expenditures. In addition, NOTL Hydro has not identified or mentioned the load control project in its submission.

Board staff submits that the \$46,000 in OM&A, and associated interest to April 30, 2014, related to the residential load control pilot project should not be allowed for recovery as NOTL Hydro has not provided sufficient evidentiary support that the expenditures were incremental to costs built in to rates, prudently incurred and that they met the requirements set out by the Board at the time the project was undertaken.

- All of which is respectfully submitted -