



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

November 13, 2014

**RE: Brantford Power Inc.  
Application for Distribution Rates Effective January 1<sup>st</sup>, 2015  
Board File EB-2014-0187  
Reply Submissions**

Dear Ms. Walli,

In the Board's Procedural Order No. 1 in the above-captioned matter, the Board made a provision for BPI to file its written reply submissions on or before November 13, 2014. Accordingly, please find attached the reply submissions of Brantford Power Inc. ("BPI") for this Application.

Sincerely,

*Original Signed By*

**Paul Kwasnik,  
President & CEO**

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**EB-2014-0187**

**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 Brantford  
Power Inc. for an order approving just and reasonable  
rates and other charges for electricity distribution to be  
effective Jan. 1, 2015.

**BRANTFORD POWER INC.**

**REPLY SUBMISSION**

**DELIVERED: NOVEMBER 13, 2014**

1 **Introduction**

2 Brantford Power Inc. (“BPI”) filed an application (the “Application”) with the Ontario Energy Board (the  
3 “Board”) on August 13, 2014, under section 78 of the *Ontario Energy Board Act, 1998*, seeking approval  
4 of changes to its distribution rates and other charges, to be effective January 1<sup>st</sup>, 2015. The Application  
5 was filed in accordance with Chapter 3 (Incentive Regulation) of the Board’s *Filing Requirements for*  
6 *Electricity Distribution Rate Applications*.

7 On September 2nd, 2014 the Board issued its Letter of Direction. BPI complied with the Letter of  
8 Direction, including the publication of the Notice of Application. On September 23rd, 2014 the Board  
9 issued Procedural Order No. 1 indicating that the Vulnerable Energy Consumers Coalition (“VECC”) had  
10 requested and been granted Intervenor status and cost eligibility in relation to BPI’s request for  
11 disposition of the balance in its variance account caused by the difference between the actual  
12 revenue impacts of conservation programs relative to what was anticipated and proposed recovery  
13 of revenue losses due to conservation programs. On October 3, 2014 Board Staff and VECC filed  
14 interrogatories related to the Application. BPI filed complete responses to these interrogatories on  
15 October 16, 2014.

16 On October 30, 2014, Board Staff and VECC filed submissions on the following matters related to the  
17 Application:

18 Board Staff:

- 19 • Review and Disposition of Lost Revenue Adjustment Mechanism Variance Account( “LRAMVA”):
- 20 ○ 2012 Lost Revenue Adjustment Mechanism (“LRAM”) Amount (Persisting lost revenues  
21 in 2012 from 2006 to 2010 CDM Programs);
- 22 ○ 2013 LRAM Amount (Persisting lost revenues in 2013 from 2006 to 2010 CDM  
23 Programs); and
- 24 ○ 2012 LRAMVA amount (Lost revenues in 2012 that have been recorded in account 1568-  
25 LRAMVA which are related to the effects of 2011 and 2012 CDM programs), including  
26 comments on BPI’s inclusion of savings related to the Demand Response 3 program  
27 within its 2012 final verified results; and

- 1       • Treatment of Balances in Account 1582

2   VECC:

- 3       • Lost Revenue Adjustment Mechanism Variance Account:
- 4           ○ Persisting Lost Revenue in 2012 for 2006-2010 OPA CDM Programs;
- 5           ○ Lost Revenues in 2011 and 2012 for CDM Programs in 2011 and 2012; and
- 6           ○ Demand Response Programs.

7   The Board Staff and VECC submissions on these matters are summarized in the sections below, followed  
8   by BPI's reply submissions.

9   BPI understands that the Board will adjust the inflation factor used for incentive rate setting under Price  
10   Cap IR to the value of 1.6% in accordance with the update issued by the Board on October 30, 2014. BPI  
11   also understands that the Board will further update Uniform Transmission Rates ("UTRs") as they  
12   become available, and that the updated UTRs will be used in the calculation of Retail Transmission  
13   Service Rates.

14   In the event that the Board is not able to provide a Decision and Rate Order in time for BPI to implement  
15   its new rates for January 1, 2015, BPI requests that BPI's current rates be declared interim and that BPI  
16   be permitted to establish rate riders for the collection of forgone revenues for the period from January  
17   1, 2015 to the implementation date.

18

19   **1.0 LRAM and LRAMVA**

20   **1.1 Persisting lost revenues in 2012 from 2006 to 2010 CDM Programs**

21   BPI applied for the recovery of \$116,047.82 related to the persistent effects of 2006 to 2010 CDM  
22   programs occurring in 2012.

23   BPI included this LRAM claim, as BPI was under IRM in 2012 and the rates in place during 2012 were  
24   based on the load forecast used in its 2008 Cost of Service Rate Application (EB-2007-0698). The 2008  
25   CDM Guidelines state that lost revenues are accruable until new rates are set by the Board which are

1 assumed to incorporate the impact of CDM on distribution revenue. In its Decision in BPI's 2008  
2 Application,<sup>1</sup> the Board confirmed that BPI's load forecast did not take into account the effects of any  
3 CDM programs.

4 • **Board Staff Submission**

5 Board Staff supported BPI's claim for 2012 persistent lost revenues on the basis that BPI remained under  
6 IRM in 2012, and BPI's 2008 Load Forecast did not incorporate the impacts of CDM. Board Staff further  
7 referred to BPI's 2012 IRM Decision (EB-2011-0147), in which the Board approved BPI's claim for the  
8 impacts of historical persistence in 2006 to 2010, on the basis that, although the 2008 CDM Guidelines  
9 state that lost revenues are only accruable until new rates are set by the Board, the Board  
10 acknowledged that the load forecast supporting BPI's last (2008) Cost of Service did not include any  
11 impacts of CDM programs (Decision and Order released April 19, 2012, at page 16).

12 • **VECC Submission**

13 VECC's submission was that BPI's request for the approval of the \$116,047.82 associated with persistent  
14 lost revenues in 2012 is reasonable. VECC notes the Board's approval, in BPI's 2012 IRM application (EB-  
15 2011-0147), of a similar claim made by BPI for the impact of the 2006-2010 CDM programs in 2011.

16 • **BPI Reply**

17 BPI concurs with the Board Staff and VECC submissions and respectfully requests that the Board approve  
18 its request for recovery of the \$116,047.08 related to the persistent effects of 2006 to 2010 CDM  
19 programs occurring in 2012.

20 **1.2 Lost Revenues in 2011 and 2012 related to the effects of 2011 and 2012 CDM Programs, recorded**  
21 **in account 1568 - LRAMVA.**

22 In its Application, BPI requested that the Board approve the disposition of Account 1568-LRAMVA in the  
23 amount of \$107,734. These amounts represent: the impact of 2011 CDM Programs in 2011; the  
24 persisting impact of 2011 CDM Programs in 2012; and the impact of 2012 CDM Programs in 2012.

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<sup>1</sup> [http://www.ontarioenergyboard.ca/oeb/Documents/2008EDR/dec\\_Brantford\\_20080718.pdf](http://www.ontarioenergyboard.ca/oeb/Documents/2008EDR/dec_Brantford_20080718.pdf) - see page 13

1 A portion of these claims, amounting to \$1,015.51, is associated with CDM results from the Demand  
2 Response 3 Program.

3 • **Board Staff Submission**

4 Board Staff submitted that BPI followed the appropriate CDM guidelines in calculating its LRAMVA  
5 amount and that it supports BPI in its request for the disposition of Account 1568—LRAMVA. Board Staff  
6 noted that BPI did not update its load forecast until 2013 and was under IRM during 2012, and therefore  
7 BPI is eligible for the full LRAMVA amount.

8 Board Staff supported BPI's inclusion of the lost revenues associated with the Demand Response 3  
9 Program. Board Staff submitted that the 2012 lost revenues related to BPI's Demand Response 3  
10 Program were based on the verified final OPA CDM results, consistent with the Board's 2012 CDM  
11 Guidelines.

12 • **VECC Submission**

13 VECC submitted that BPI is eligible for the recovery of its 2012 LRAMVA balance of \$107,734, subject to  
14 VECC's comments regarding the Demand Response 3 program.

15 With respect to the Demand Response 3 Program, VECC submitted that no lost revenues from GS<50  
16 kW and GS 50 to 4999 kW customers associated with the Demand Response 3 program should be  
17 included in the LRAMVA recovery.

18 VECC offered the following reasons for this position:

- 19 ○ VECC submitted that the OPA verified savings reports are not necessarily reflective of  
20 the actual demand reductions in each year for this Demand Response program;
- 21 ○ There is no evidence that the DR3 program was activated during each year;
- 22 ○ It is not known whether, on the instances that the program was activated, the activation  
23 occurred at the same time as the customer's monthly peak; and
- 24 ○ Under circumstances where the customer's monthly peak and program event were  
25 coincident, the second highest peak for the customer may have been only slightly less  
26 than its highest peak.

27

1       • **BPI Reply**

2       BPI concurs with the submission of Board Staff and respectfully submits that the Board should approve  
3       its full claim of \$107,734, including the impact of Demand Response 3 Programs. The Board's *Guidelines*  
4       *for Electricity Distribution Conservation and Demand Management* (the "CDM Guidelines", EB-2012-  
5       0003, dated April 26, 2012) state (on page 13) that "The difference between the approved CDM amount  
6       (kWh and MW) in the distributors load forecast and the actual verified final program results, either from  
7       the OPA or a third party in accordance with the OPA's EM&V protocols, will be the LRAM amount  
8       available for recovery." The CDM Guidelines clearly confirm that the OPA final program results are  
9       appropriate for use in calculating LRAMVA balances. BPI and its consultants, Burman Energy, have relied  
10      on this definition in using the final OPA verified results to calculate the impacts of 2011 and 2012 OPA  
11      CDM programs occurring in 2011 and 2012.

12      BPI further submits that if the Board wishes to consider the matters raised by VECC, this would more  
13      appropriately be done in the context of a broader consultation. BPI made its request for LRAMVA  
14      disposition in this Application in compliance with the Board's filing requirements and the CDM  
15      Guidelines, and BPI does not believe this Application is the appropriate forum to address the expansion  
16      of those requirements.

17      BPI wishes to clarify one item mentioned in the Board Staff submission. In its submission, Board Staff  
18      refers to BPI's LRAMVA claim of \$107,734 as a claim for "Lost revenues in 2012 that have been recorded  
19      in Account 1568- LRAMVA which are related to the effects of 2011 and 2012 CDM programs". BPI wishes  
20      to clarify that the amount of \$107,734 in its Account 1568-LRAMVA includes the impacts of 2011 and  
21      2012 CDM programs in 2012 as well as the impacts of 2011 CDM programs in 2011 (along with  
22      associated carrying charges). This is documented in its Application Manager's Summary, at page 16 of  
23      26, as well as Attachments F, G, and H to the Application.

24

1 **1.3 Persisting lost revenues in 2013 from 2006 to 2010 CDM Programs**

2 BPI did not apply for the recovery of persisting lost revenues in 2013 related to 2006 to 2010 CDM  
3 Programs. It was BPI's understanding, based on the Board's Decision in its 2012 IRM Application (EB-  
4 2011-0147), that BPI was not eligible to claim this persistence amount for 2006 to 2010 programs in  
5 2013 until the 2013 OPA final verified savings results were released. On page 16 of the Board's Decision  
6 in EB-2011-0147, the Board indicated that BPI's claim for the persistence of historic programs in 2011  
7 was premature and inconsistent with the CDM Guidelines. As outlined in its response to Board Staff  
8 interrogatory #4, part E, BPI did not have the OPA's verified results for 2013 at the time that it was  
9 preparing its Application.

10 In its response to Board Staff's interrogatory #4, part D, BPI submitted that it should be eligible to  
11 recover persisting lost revenues occurring in 2013 due to 2006 to 2010 programs because the rates in  
12 place during 2013 were not based on a load forecast which incorporated the impact of these CDM  
13 programs.

14 

- **Board Staff Submission**

15 Board Staff submitted that, while it is not required to make a finding related to these amounts, and  
16 while there is no evidence before the Board on this matter, BPI should be eligible for the persisting lost  
17 revenues in 2013 from the 2006 to 2010 programs.

18 

- **VECC Submission**

19 VECC submits that BPI had not received its 2013 Final OPA CDM Report as of the date of interrogatory  
20 responses on October 16 and that, in the absence of this 2013 OPA Report, the recovery of 2013 lost  
21 revenues is premature and should be considered in a future application.

22 

- **BPI Reply**

23 BPI would like to provide a clarification of one matter addressed by VECC. VECC states that BPI had not  
24 received its 2013 Final OPA CDM Report as of the date of interrogatory responses on October 16<sup>th</sup>. In  
25 fact, BPI's response to Board Staff's Interrogatory #4, section E was that it had not received the OPA  
26 Report in time for the preparation of the original Application.



1 At the time of the filing of Interrogatories, BPI had received this OPA report, but BPI was not able to  
2 prepare a timely calculation and verification of the LRAM claim associated with these programs in time  
3 to submit it with its Interrogatory Responses. While the facts are not as described by VECC, BPI agrees  
4 that the recovery of 2013 lost revenues should be considered in a future application.

5 BPI submits that while it is not requesting the disposition of these amounts in this Application, it intends  
6 to do so in a future application. BPI concurs with Board Staff's submission that BPI should be eligible for  
7 the persisting lost revenues in 2013 associated with these 2006 to 2010 programs.

## 8 **2.0 Treatment of Balances in Account 1582**

9 In its Application, at page 21, BPI included an item to inform the Board of an adjustment made in the  
10 Deferral and Variance Account Model supporting the Settlement Agreement to its 2013 Cost of Service  
11 Application (EB-2012-0109) which BPI believes to be incorrect. Specifically, BPI believes it had  
12 mistakenly carried over an adjustment which was used to respond to Board Staff interrogatory 9-Staff-  
13 31, part (c). This interrogatory had requested that BPI provide amended rate riders removing the  
14 amount of \$211,246 and any associated carrying charges from Account 1582. The calculation was  
15 performed and provided for the purposes of the response to the interrogatory, but in providing these  
16 adjusted rate riders, BPI noted that it believed that the amounts removed for the purpose of responding  
17 to the interrogatory should be recovered from ratepayers. This adjustment requested in the  
18 interrogatory was carried forward in the Deferral and Variance Account model supporting BPI's  
19 Settlement Agreement. As a result, the amount of \$284,402 (consisting of \$211,246 in principal and  
20 \$73,156 in interest) was removed from account 1582 - RSVA WMS One-Time.

21 BPI indicated in its Application that it is not seeking the recovery of this amount at this time (the account  
22 is a Group 2 account, and is not eligible for disposition during IRM). BPI's proposal is to carry forward the  
23 amounts in question in its account 1582 - RSVA WMS One-Time. BPI plans to propose the disposition of  
24 this account at its next opportunity, likely at the time of its next Cost of Service Rate Application.

25 In response to interrogatory #2, part B from Board Staff in the current Application, BPI advised that in its  
26 response to Interrogatory 9-Staff - 31 part (c) in EB-2012-0109 in which it made the original adjustment  
27 to the EDDVAR model at the request of Board Staff, BPI had noted that it still intended to seek the  
28 recovery of the amounts that it had removed for the purpose of responding to that interrogatory. In the

1 Settlement Agreement, the treatment of that account is not specifically addressed. Instead, the  
2 Settlement Agreement (at section 9.1)<sup>2</sup> states that the parties agree to the account balances in the  
3 evidence cited (which includes the Application as originally filed, as well as certain interrogatory  
4 responses including 9-Staff-31), adjusted for certain changes, discussed later in the document. None of  
5 the changes discussed has any impact on the original request for the disposition of the balance in  
6 Account 1582. Section 9.1 then makes reference to the attached updated EDDVAR continuity schedule,  
7 which was agreed upon by the Parties. This attached schedule is the one in which the adjustment for 9-  
8 Staff-31 was carried forward.

9 The amount of \$284,402 was associated with the reallocation of the principal amount of \$211,246, and  
10 \$18,659 in interest on that principal amount (at the time of the reallocation), from Account 1580 – RSVA  
11 Wholesale Market Service into Account 1582 prior to the Board making its decision in BPI’s 2006 Cost of  
12 Service application (EB-2005-0342).

13       • **Board Staff Submission**

14 Board Staff submitted that the \$284,402 should not be recoverable by BPI. Board Staff submitted that  
15 the matter should have been brought to the attention of the Board as the adjustment to account 1582—  
16 RSVA One-Time was originally made prior to the Board’s Decision in BPI’s 2006 Cost of Service  
17 application. Board Staff submitted that attempting to recover these amounts, related to a prior period  
18 adjustment, constitutes retroactive ratemaking.

19 Additionally, Board Staff noted that while the removal of the \$284,402 from the EDDVAR model  
20 supporting BPI’s Settlement Agreement in EB-2012-0109 may have been unintentional, the model  
21 supported a Settlement Agreement which was settled upon by all of the parties to this agreement.

22       • **BPI Reply**

23 BPI included section 2.8.2—RSVA One-Time Variance Account in its Application in order to inform the  
24 Board and any other interested parties, and of its proposed future treatment for this account. BPI is not  
25 at this time applying for the disposition of the \$284,402 balance in Account 1582—RSVA WMS One-

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<sup>2</sup> Available at

[http://www.rds.ontarioenergyboard.ca/webdrawer/webdrawer.dll/webdrawer/rec/425321/view/BPI\\_Settlement\\_P\\_20140212.PDF](http://www.rds.ontarioenergyboard.ca/webdrawer/webdrawer.dll/webdrawer/rec/425321/view/BPI_Settlement_P_20140212.PDF) - see page 46

1 Time. As stated in the Application at page 21, BPI intends to deal with this matter at its earliest future  
2 opportunity. At that time, BPI will present comprehensive evidence to explain BPI's position on the  
3 \$284,402 in question. At that time, Board Staff and customer representatives (including any intervenors  
4 that were parties to BPI's Settlement Agreement in EB-2012-0109) will have an opportunity to consider  
5 the request and the reasonableness of BPI's evidence and arguments. BPI acknowledges the points  
6 brought forward by Board Staff in its Submission, and intends to consider and address these items in any  
7 future request for the disposition of the amounts in 1582.

8 At this time, BPI cannot agree with Board Staff's position that the \$284,402 should not be recoverable in  
9 this or any future proceeding, or with Board Staff's implicit request that the Board make such a finding  
10 now. BPI submits that it has not presented its full case and arguments to address the disposition of this  
11 amount, nor has it been permitted to do so, as the disposition is not an appropriate issue in an IRM  
12 application according to the Board's policies. BPI therefore should be allowed to present its full evidence  
13 and arguments in a future rates proceeding. BPI respectfully submits that it would be premature for the  
14 Board to pre-emptively reject any recovery of this balance on the basis of the Board Staff submission in  
15 circumstances where the Board's Filing Requirements related to the current Application prevent BPI  
16 from presenting its case.

17 All of which is respectfully submitted this 13<sup>th</sup> day of November, 2014.