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August 9, 2016

Delivered by RESS and Courier

Ms. Kirsten Walli, Board Secretary
Ontario Energy Board
P.O. Box 2319, 27th Floor
2300 Yonge Street
Toronto, Ontario
M4P 1E4

Dear Ms. Walli:

Re: EB-2015-0072
Grimsby Power Incorporated
Reply Submission

Grimsby Power is filing its Reply Argument to the Oral Hearing held July 13 and 14, 2016.

Two hard copies of the reply will follow by courier under separate cover.

Regards,

Original signed by

Mioara Domokos
Director of Finance
Grimsby Power Inc.

EB-2015-0072

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B, as amended (the "OEB Act");

AND IN THE MATTER OF an Application by Grimsby Power Inc. under Section 78 of the OEB Act to the Ontario Energy Board for an Order or Orders approving or fixing just and reasonable rates and other service charges for the distribution of electricity as of May 1, 2016.

REPLY SUBMISSION OF GRIMSBY POWER INC.

Delivered August 9, 2016

INTRODUCTION

Grimsby Power Inc. ("Grimsby Power") filed a cost of service application with the Ontario Energy Board (the "OEB") on December 23, 2015, seeking approval for changes to the rates that Grimsby Power charges for electricity distribution, to be effective May 1, 2016.

On June 24, 2016, Grimsby Power filed a Partial Settlement Proposal encompassing all issues except (1) Operations, Maintenance and Administration (OM&A) costs, (2) Payments in Lieu of Taxes (PILs); and (3) the effective date of rates. As a result, the following issues on the OEB-approved Issues List remain outstanding:

1.2 OM&A

Is the level of planned OM&A expenditures appropriate and is the rationale for planning choices appropriate and adequately explained, giving due consideration to:

- customer feedback and preferences
- productivity;
- benchmarking of costs;
- reliability and service quality;
- impact on distribution rates;
- trade-offs with capital spending;
- government-mandated obligations; and
- the objectives of the Applicant and its customers.

2. REVENUE REQUIREMENT

2.1 Are all elements of the Revenue Requirement reasonable, and have they been appropriately determined in accordance with OEB policies and practices?

2.2 Has the Revenue Requirement been accurately determined based on these elements?

An oral hearing on the unsettled issues was held on July 13 and 14, 2016. During the hearing, the OEB Panel provided comments and guidance with respect to the treatment of certain existing deferral accounts and of the costs related to a future asset condition assessment to be performed by Grimsby Power. The Parties to the Partial Settlement Proposal considered the Panel's comments and agreed to a revision of the Partial Settlement Proposal to address them. A revised Partial Settlement Proposal was filed with the OEB on July 28, 2016.

Grimsby Power has received submissions from OEB Staff, Energy Probe, Niagara Peninsula Energy Inc. ("NPEI"), the School Energy Coalition ("SEC") the Vulnerable Energy Consumers Coalition ("VECC"). Grimsby Power offers the following submissions in reply thereto. They have been organized generally according to the order set out in the OEB Staff submission: OM&A; PILs and the effective date of Grimsby Power's 2016 rates. Grimsby Power repeats and relies upon its pre-filed evidence, its updates to that evidence (subject to the adjustment of its OM&A request to reflect actual expenditures through June of 2016 and a forecast for the balance of this year as set out in Grimsby Power's response to Undertaking J1.1), and the submissions made in its Argument-in-Chief, subject to any further adjustments discussed below.

OPERATIONS, MAINTENANCE AND ADMINISTRATION

At page 3 of the OEB Staff submission, OEB staff make the following comment:

> OEB staff notes that Grimsby Power filed an updated test year OM&A forecast of $3.7M, in response to undertaking J1.1, subsequent to the presentation of its argument in chief. The updated test year OM&A forecast was based on 6 months of actual 2016 data through to the month of June and a forecast for the remainder of the months. Though Grimsby Power's argument in chief requested approval of $3.9M in OM&A in the test year, OEB staff will be using Grimsby Power's revised forecast number of $3.7M as the starting point, when discussing any adjustments to OM&A. This revised OM&A amount represents a 55% increase over expenses that were approved in Grimsby Power's last cost of service application.

Grimsby Power confirms that it filed an updated test year OM&A forecast in response to undertaking J1.1. Due to the timing of the oral hearing, well into 2016, Grimsby Power has been able to create a forecast based on the best available actual financial information to the end of June of this year. This experience, coupled with actual 2015 financial data, provides an opportunity to examine costs with the most updated factual financial information compared with the Grimsby Power's 2015 Bridge Year and 2016 Test Year budgets which were created in late 2014 & early 2015 and mid 2015 respectively. As noted in undertaking J1.1 the largest contributor to the reduction in OM&A is related to "Vacancies in FTE & Succession Planning" (representing a reduction of $129,775) and this reduction is caused only by changes to the timeline for the hiring of these FTEs. Grimsby Power submits that the forecast of $3,733,648 represents a reasonable revised OM&A request. As OEB Staff indicated in their submission, this represents a 55% increase over expenses approved in 2012. That translates into an incremental OM&A expense of $ 1,326,845 over 2012 Board Approved OM&A.

Prior to this adjustment, the most recent calculation of the impacts of Grimsby Power's proposed distribution rates was performed as part of its responses to OEB Staff and intervenor interrogatories[1]. At that time, the estimated bill impact for a typical 800 kWh/month Residential customer resulting from Grimsby Power's Application was 0.48%. With the downward adjustment to Grimsby Power's requested OM&A resulting from the use of data on actual OM&A expenditures through June, and with the overall downward adjustments to Grimsby Power's revenue requirement resulting from the combination of the partial settlement and the adjustment to the PILs calculation discussed below, the estimated bill impact for the typical Residential customer is a bill reduction of $0.48/month, which corresponds to a percentage impact of -0.35%. The table below shows the changes to bill impacts as filed in the original Application through to this reply submission.

[1] Grimsby_Filing_Requirements_Chapter2_Appendices_20160506 – App. 2-W Bill Impacts

		Residential - 800 kWh/month								
		Selected Delivery Charge and Bill Impacts								
		Subtotal A - Monthly Delivery Charge					Total Bill			
		Current	Proposed	Change $	Change %		Current	Proposed	Change $	Change %
Original Application	23-Dec-15	$25.37	$32.64	$7.27	28.66%		$136.44	$138.34	$1.90	1.39%
Response to Interrogatories	06-May-16	$25.37	$32.23	$6.86	27.04%		$136.44	$137.09	$0.65	0.48%
Reply Submission	09-Aug-16	$25.37	$31.10	$5.73	22.59%		$136.44	$135.96	-$0.48	-0.35%

Grimsby Power believes that the resulting revenue requirement will allow it to address its incremental staffing needs both for the 2016 Test Year and its IRM years, as well as its other incremental OM&A needs.

- **Correction of OEB Staff assumption regarding increases in FTE Count**

OEB Staff submit that the forecasted incremental addition of FTE's over the rate setting period is 8.22 FTEs.[2] This value is derived from Table 5 in Grimsby Power's response to Undertaking J1.3, which showed 25.16 FTEs in 2016 minus current staff on site of 16.94. However, the OEB Staff assertion that an additional 8.22 FTEs are being hired is incorrect. This FTE count includes two current vacancies that were full time positions prior to the 2016 Test Year. Therefore, Grimsby Power submits that the increase should be 6.22 based on the information provided in Table 5.

- **OM&A Drivers**

The OEB Staff and intervenor positions:

Board Staff submit that Grimsby Power's OM&A should be based on an envelope approach which contains adjustments for inflation and growth as presented in their table.[3] This formulaic envelope approach is also promoted by Energy Probe.[4]

Grimsby Power's reply:

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[2] EB-2015-0072 – OEB Staff Submission, July 29, 2016, at p.3
[3] EB-2015-0072 – OEB Staff Submission, July 29, 2016, at p.7
[4] EB-2015-0072 – Energy Probe Submission, July 29, 2016, at pp.6-12

Grimsby Power submits that this approach ignores the reality of the electricity distribution business environment and the evidence provided by Grimsby Power in its Application. For these reasons Grimsby Power submits that the envelope approach is not appropriate.

Grimsby Power has provided detailed evidence of the reasons for OM&A growth from the Board Approved level of $2,407,163 in 2012 to the requested $3,925,363 in the 2016 Test Year[5], now adjusted to $3,733,648 in keeping with Grimsby Power's response to Undertaking J1.1. The cost drivers from the 2012 Board approved level are fully described in Exhibit 4 – Associated Cost Drivers and Significant Changes.[6] Within this section of the Application the main drivers of OM&A costs are noted as Human Resource Requirements; Base Compensation Changes; and the amalgamation of Grimsby Power and NWTC.

Within the Human Resources Requirements subsection,[7] Grimsby Power has described the need to replace certain positions prior to retirements in order to maintain the knowledge base within the utility. Specifically, those positions are two Journeyman Line Maintainers, a Customer Accounts Supervisor, and an Executive Assistant. In addition to succession planning, Grimsby Power has also evaluated its requirements over the five-year rate period and has identified a number of new positions to the organization - specifically, an Accounting Supervisor, an Applications Systems Support Professional, a Customer Accounts Representative, Executive Assistant (0.5 FTE) and a full time Storekeeper. Detailed descriptions of each of these new positions and the reasons they are needed by Grimsby Power are set out in the Application.[8] The human resource requirements were identified in Grimsby Power's succession planning, and more specifically in the document titled *"Succession Planning Analysis and Recommendations"* filed with the Board in the interrogatories.[9] The succession planning analysis and recommendations have been informed by two customer surveys as noted in the Application.[10]

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[5] Application, December 23, 2015 – Exhibit 4 – p.4
[6] Application, December 23, 2015 – Exhibit 4 – pp.6-11
[7] Application, December 23, 2015 – Exhibit 4 – pp.6-10
[8] Application, December 23, 2015 – Exhibit 4 – pp.8-10
[9] See Appendix 1-SEC-9 to Grimsby Power's interrogatory responses, at p.17
[10] Application, December 23, 2015 – Exhibit 4 – pp.47-50

The output of the two customer surveys, a Customer Satisfaction Survey and Educational Communications DSP Customer Survey would indicate a number of customer identified priorities. The Customer Satisfaction Survey provided three main conclusions[11]:

- Customers, almost universally, are concerned about the cost of electricity,
- Customers are resilient and can adapt to adversity, in fact, they are very tolerant when a utility goes through a very difficult situation, and
- In a utility world that is used to "pushing information out", it has to invest in and hone its competencies in having 2-way interactions with customers.

The Educational Communications DSP Customer Survey noted three customer identified priorities[12]:

- Improve long term reliability and reduce time needed to restore power,
- Communicate better during outages; and
- Provide energy conservation education.

Grimsby Power's response to customer focus concentrates on six key customer preferences:[13]

- Affordable electricity costs,
- Reliability of service with rapid response to un-planned outages,
- Assistance to reduce consumption and electricity costs,
- Professional interactions with highly skilled and experienced personnel,
- Communications through a variety of media including phone, internet, social media, in person, and e-mail; and
- Business to be customer centric including timely service that solves their problems.

Grimsby Power's succession planning analysis is a detailed comprehensive review of its workforce. It contains a workforce demand forecast, a workforce supply analysis, a current workforce profile, a workforce gap analysis with both existing and future positions, and recommendations. The structure of the analysis is in a question and answer format with detailed mapping of the organization by function and a cross reference of the function to each

[11] Application, December 23, 2015 – Exhibit 1 – pp.55-56
[12] Application, December 23, 2015 – Exhibit 1 – p.49
[13] Application, December 23, 2015 – Exhibit 1 – pp.64-68

resource/position. It also includes a detailed workforce profile which identifies retirements within each position. The gap analysis contains detailed information within each existing position and within the new positions. The recommendations contained within this analysis are focused on the primary objective of providing customers with the best possible service and thus support the outcomes based objectives of the RRFE.

OEB Staff specifically refer to three positions (Accounting Supervisor, Executive Assistant, and Journeyman Lineman) which they assert are not supported by the evidence.[14]

With respect to the Accounting Supervisor position, OEB Staff state that “the benefits of this additional position will accrue more to Grimsby Power’s Board of Directors than to its customers”.[15] OEB Staff say that the “strategic functions” of this position do not support customers. Grimsby Power disagrees. Accurate financial information and financial and regulatory reporting do support customers – the “strategic” functions related to the accounting and financial services activities within the utility allow distribution-related business decisions to be made with the best available information, and this will benefit the customer. Grimsby Power also notes that financial reporting is a critical aspect of compliance with its OEB Distributor Licence. The suggestion that the costs associated with this position should not be recoverable through rates as a distribution-related expense is not reasonable.

With respect to the Executive Assistant position Board Staff say that “the addition of a further 0.5 FTE for the position of Executive Assistant appears to OEB staff to be excessive for an organization of Grimsby Power’s size”.[16] Grimsby Power’s succession planning analysis[17] includes a cross reference between the job position and corporate function. The column that describes the Executive Assistant position clearly describes functions related to Payroll, Benefit Administration, and Board Administrative Services as major functions and other secondary functions that are not traditional to this position. In a larger organization the Executive Assistant’s primary duty and responsibility is to provide support to the leader of the organization – often the CEO or President and CEO. However, in Grimsby Power’s case the Executive

[14] EB-2015-0072 – OEB Staff Submission, July 29, 2016, at p.8
[15] *Ibid.*
[16] *Ibid.*
[17] See Appendix 1-SEC-9 to Grimsby Power’s interrogatory responses, at p.17

Assistant has many other responsibilities beyond supporting the leader of the organization and this position is truly a multifunctional position common to smaller organizations where individuals must wear multiple hats. In larger organizations these roles & responsibilities would be separated. Examples of this may be Payroll Administrator, Benefits Administrator and/or Human Resources Generalist to name a few. Therefore, Grimsby Power disagrees with the characterization that this 0.5 FTE is excessive for an organization of its size. On the contrary, the addition of 0.5 FTE for this position represents a highly efficient approach to staffing for a small utility. Board Staff also submit that "Grimsby Power has failed to provide convincing evidence that its strategy for staffing these managerial and administrative functions is likely to provide a direct benefit to customers".[18] The same argument as used above applies equally well here. Even though these management and administrative positions may not work directly with customers they support business decisions being made with the best available information and surely a well run utility is a direct benefit to the customer.

As a more general matter, Grimsby Power strongly disagrees with the OEB Staff inference that Management and Administrative roles within Grimsby Power (and presumably within other LDCs) do not provide a direct benefit to customers.[19] Distributors require administrative staff in order to function efficiently and meet the conditions of their Distribution Licences. If OEB Staff are in fact suggesting that administrative and management staff costs should be removed from the distribution revenue requirement on the basis that those LDC staff members do not directly serve the customer, then that is an issue that transcends a single rate application by a small utility, and is more properly the subject of a future consultation. It should not, however, be the basis for the denial of Grimsby Power's proposed incremental OM&A related to these positions. Grimsby Power submits that all positions within its organization support the customer, whether this be directly or indirectly, and therefore its request with respect to the funding of these positions meets the outcomes based approach of the RRFE.

With respect to the Journeyman Lineman positions OEB Staff submit that "the succession planning schedule appears to be aggressive".[20] The detailed information on the reasons for these

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[18] EB-2015-0072 – OEB Staff Submission, July 29, 2016, at p.8
[19] *Ibid.*
[20] *Ibid.*

two line positions are best described in the Application[21] and the Succession Planning Analysis.[22] As stated in the Succession Planning Analysis, it takes five years to become a Journeyman Lineman (assuming no related prior experience) and another five years to be fully competent. As Grimsby Power indicated in its interrogatory responses,[23] It is Grimsby Power's intention to maintain a Journeyman compliment of four. Based on the table provided in the Applicant's response to interrogatory 4-Staff-37(b), at p.202, the temporary increase to six Journeymen positions (Journeyman & Journeyman Apprentices) will be reduced by one in 2019 (due to retirement eligibility) . With respect to the other reduction, this could take place any time after 2017 (due to retirement eligibility) as shown in the Succession Planning Analysis.[24] Since retirement eligibility for two of the existing four Journeyman positions are within the five-year apprenticeship training period Grimsby Power considers this good planning and not excessive in any way.

Grimsby Power's application to increase its current employee compliment to 25.16 FTE's, as stated in undertaking J1.3, is fully supported by the evidence provided in the application and interrogatory responses. Resources have been added to fulfill the needs of the business environment and the direct needs and wants of Grimsby Power customers as informed by the two customer surveys conducted by Grimsby Power. Grimsby Power's level of OM&A is therefore, a direct result of the need to fulfill customer & business needs and the increase in costs do not fit inside a formulaic envelope approach to setting appropriate OM&A costs.

Base compensation changes have been made by Grimsby Power as detailed in the Application[25] and more fully described in Grimsby Power's Interrogatory Responses.[26] Aside from inflationary increases to salaries and wages, the key driver for the increase in base compensation is an effort by Grimsby Power to bring its management compensation into line with other comparably sized LDCs. Prior to this change, management wages were 17.2% lower than the

[21] Application, December 23, 2015 – Exhibit 4 – p.7, lines 1-15
[22] See Appendix 1-SEC-9 to Grimsby Power's interrogatory responses, at pp.22-23
[23] Specifically, in its Response to Interrogatory 4-Staff-37 (d), at p.203
[24] See Appendix 1-SEC-9 to Grimsby Power's interrogatory responses, at p.13
[25] Application, December 23, 2015 – Exhibit 4 – pp.10-11
[26] Applicant's Response to Interrogatory 4-Staff-36

median of other LDC's with less than 20,000 customers.[27] The large level of disparity (prior to 2012) would certainly not be attractive to prospective candidates applying for positions at Grimsby Power and would compromise recruitment activities and the quality of individuals available to Grimsby Power. These changes have been made to make Grimsby Power management wages competitive with the same size LDCs at the median level of compensation and remove the recruitment barrier of low compensation. This is also an example of the inequities in the envelope approach. Should Grimsby Power be forced through a formulaic approach to cost of service applications to maintain management compensation levels so disparate with the median compensation of similarly sized utilities? That approach would clearly not make it possible to correct that inconsistency, and Grimsby Power maintains that that formulaic approach is not appropriate. Grimsby Power is not attempting to create exorbitant compensation packages for its management staff; it is simply attempting to achieve a degree of parity with similarly sized distributors so that it will have access to the same talent pool as its peers and so that its management staff are compensated in a similar manner to the compensation of Grimsby Power's peers.

The amalgamation of Grimsby Power and NWTC is discussed in detail in the Application.[28] The OM&A expenses related to the operation of the Niagara West MTS (in the amount of $ 217,738) for the 2016 Test Year are incremental to those OM&A Costs forming the basis of Board approved OM&A costs in 2012.

- **Normalization of OM&A, including FTEs:**

Of the $1.33 million in incremental OM&A expenses, $0.57 million pertains to incremental costs for a forecasted additional 6.22 FTEs (incorrectly described by OEB Staff as 8.22 additional FTEs). Contrary to the assumption of OEB Staff, Grimsby Power clearly advised[29] that "All vacancies are projected to be filled by December 31, 2016 based on the projected hiring dates". Grimsby Power has attempted to "normalize" certain OM&A costs, including those related to incremental FTEs in its Application in order to ensure that sufficient revenue is necessary when

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[27] Application, December 23, 2015 – Exhibit 4 – pp.10-11
[28] Application, December 23, 2015 – Exhibit 4 – p.10
[29] See Grimsby Power's response to Undertaking J1.3

those incremental costs are incurred and the incremental FTEs are in place. Grimsby Power submits that this represents a responsible approach to managing OM&A, as it enables Grimsby Power to acquire additional staff when they are needed. Grimsby Power submits that its "normalization" of FTE costs, where incremental FTE costs are included in the Test Year revenue requirement in order to ensure that monies are available to support those FTEs when they have been hired, is an appropriate approach.

Board Staff and Intervenor submissions:

OEB Staff and the intervenors oppose the normalization of FTE costs. OEB Staff submit that "it is not appropriate to include recovery of future FTE costs in the forecast test year OM&A for an application filed under the Price Cap IR framework".[30] OEB Staff and Energy Probe suggest that this approach is similar to that of a Custom IR application and that only costs to be incurred in the Test Year should be allowed. OEB Staff assert that "additional costs throughout the IR term should be managed through efficiency improvements and productivity gains".[31] OEB Staff estimate that the removal of costs related to non-Test Year FTEs is a reduction of approximately $0.3 million in Grimsby Power's requested revenue requirement.

Grimsby Power's reply:

Grimsby Power disagrees with the OEB Staff and intervenor positions on normalization. As indicated above, the OEB Staff submission that Grimsby Power is including the recovery of future FTE costs in the test year is false, since the incremental FTEs are to be hired in the 2016 Test Year. The incremental staff positions for which Grimsby Power has requested funding have been justified in the Application, and Grimsby Power's approach to the timing of those additional positions and accruing the funds necessary to support those positions represents a reasonable approach.

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[30] EB-2015-0072 – OEB Staff Submission, July 29, 2016, at p.3
[31] EB-2015-0072 – OEB Staff Submission, July 29, 2016, at p.3

The principle of normalization – examples of which can be seen in the OEB's treatment of one-time costs in the *Filing Requirements for Electricity Distribution Rate Applications*[32] – is not new to the Board. One time costs in rate applications are normalized in the Test Year so that the Test Year costs are not overstated. Normalized costs are defined in the Application[33] and further explained in Grimsby Power's responses to interrogatories[34]. Normalized costs are also discussed in Grimsby Power's response to Undertaking J1.3, in which it states:

> *"The normalized cost is the average cost of the resource over the five year rate period. The forecasted cost represents 1/5th of the total cost (the sum of five years) which would have been expensed over the five year rate period."*

As stated in Grimsby Power's response to Undertaking J1.3, there are two factors which have made it necessary to normalize FTE costs in the test year – "Due to the timing of this rate proceeding (rates will be effective after the beginning of the Test Year – January 1, 2016) and Grimsby Power's difficulty in resourcing its recruitment efforts". With respect to Board Staff's reference to this normalization as being akin to a custom IR filing,[35] Grimsby Power submits that this is an oversimplification of the custom IR process. In a custom IR application, the requirements for each year of the proposed custom IR period are fully detailed with respect to all of the Chapter 2 Filing Requirements. This enables intervenors, OEB Staff, and the Board itself to evaluate each year on its merits and based on the evidence provided by the applicant. Grimsby Power has not submitted evidence that would fully detail all of the costs associated with the years beyond 2016. Grimsby Power's normalization primarily involves the normalization of FTEs which it plans to add in 2016. This limited application of normalization is very different from the costs which would be part of a custom IR application. Grimsby Power submits that the value of the normalization involves a small portion of the OM&A expense and this normalization is intended to offset the effects of the timing of hiring FTE's in the 2016 Test Year. Thus not overstating the costs to be included in the revenue requirement, and Grimsby Power submits that its proposed costs should be approved as submitted in its response to Undertaking J1.3.

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[32] *Filing Requirements for Electricity Distribution Rate Applications* – 2014 Edition for 2015 Rates Application – Chapter 2 – p.36 – Section 2.7.3.4

[33] Application, December 23, 2015 – Exhibit 4 – pp.82

[34] See Grimsby Power's response to 4-Energy Probe-29 (c-d)

[35] EB-2015-0072 – OEB Staff Submission, July 29, 2016, at p.3

As noted above, OEB staff suggested that Grimsby Power should manage additional costs throughout the IR term through efficiency improvements and productivity gains. Grimsby Power agrees that improved efficiency and productivity is desirable, and Grimsby Power actively seeks to improve its efficiency and productivity. As for efficiency, Grimsby Power's costs for the 2013-2015 were once again lower than predicted by the Pacific Economics Group ("PEG") model (by 17.0%), and Grimsby Power has again been assigned to Group II under the PEG methodology for assigning stretch factors.[36] However, the expectation that the amounts to be recovered through efficiency and productivity improvements will be sufficient to fund additional FTEs is not reasonable for Grimsby Power.

At p.15 of the *Report of the Board – Rate Setting Parameters and Benchmarking under the RRFE* (EB-2010-0379)[37], the OEB notes that for the period from 2002 to 2012 the average annual industry TFP declined to -0.33%. In other words, the productivity during this time frame was negative. The inference here is that productivity gains are possible but past history shows that the level of productivity expected is very small if any. Part of Grimsby Power's application was to highlight its efficiencies and productivity improvements[38] and although these are small they are achievable. In the oral hearing Grimsby Power agreed that a 1% productivity improvement target was appropriate.[39] If Grimsby Power assumes that it could create efficiencies and productivity gains (which result in actual cost savings) of 1%, and using 2015's actual OM&A expense of $2,918,395, this would amount to a savings of $29,184. This improvement in cost efficiency is not enough to support any additional FTEs. In fact, even if additional efficiency and productivity gains of 1% were achieved in each year of the IRM period, Grimsby Power would not even have sufficient funding for two FTEs. Therefore, the notion of OEB Staff that efficiency and productivity improvements can fund additional FTEs is simply not tenable for a utility of Grimsby Power's size. The OEB recognized that necessary increases in

[36] For the 2012-2014 period, Grimsby Power's costs were 14.6% below those predicted by the PEG model, and Grimsby Power was assigned to Group II. See the July 2016 PEG Report to the OEB on *Empirical Research in Support of Incentive Rate-Setting: 2015 Benchmarking Update*, released by the OEB on August 4, 2016.

[37] EB-2010-0379 – *Report of the Board – Rate Setting Parameters and Benchmarking under the Renewed Regulatory Framework for Ontario's Electricity Distributors* – dated November 21, 2013 – p.15 -first full paragraph.

[38] Application – Exhibit 1 – Operational Effectiveness - Page 68

[39] EB-2015-0072, TR vol.2, p. 19

staffing can lead to significant percentage increases in a small utility, where the dollar values of those increases are not large. At p.9 of the OEB's Decision and Order in Grimsby Power's 2012 Cost of Service application (EB-2011-0273), the OEB made the following finding:

> The Board notes that while Grimsby's situation is unusual, its requested relief is not unreasonable. The utility has achieved an extraordinarily low OM&A cost per customer, but it has done so by foregoing certain basic needs of the company during a period of internal change, in terms of both its management and regulatory functions. The Board accepts that a resetting of OM&A expenses for 2012 is appropriate in order to bring Grimsby's operations, maintenance and administration practices closer to the established basic practices of other utilities.
>
> The Board considers the comparisons to Burlington and Brampton to be informative; however these do not provide good comparators to Grimsby, a small utility that has been operating in a very lean manner, on an average OM&A per customer basis, and that has not rebased since 2006. As pointed out by Energy Probe, simply applying a 3% adjustment year over year to the OM&A cost per customer yields a result which is too low based on the needs of the utility. The other issue unique to a small utility is that percentage increases can appear large, when the dollar value is not. For example, the addition of two staff members increases the percentage in total compensation considerably in the case of Grimsby. Yet an increase in two staff members for the utility, appears reasonable to the Board. These small swings in dollar increases do not result in the same percentage increases for utilities such as Burlington or Brampton.

Similarly, here, in the current case, Grimsby Power submits that the requested OM&A increase is reasonable, and the positions being added are necessary for the ongoing provision of safe, reliable and efficient distribution services to Grimsby Power's customers; in order to continue to move Grimsby Power's distribution service offerings and practices closer to those of other distributors; and in order to meet the increasing regulatory requirements on LDCs, even though the percentage increase in OM&A may appear large.

- **The 2016 Test Year OM&A request in light of the 2012 Test Year OM&A increase:**

OEB Staff and Intervenor Submissions:

OEB Staff refer to Grimsby Power's last cost of service application for 2012 rates where Grimsby Power requested large increases in OM&A. They also make reference to the current request for another increase in OM&A to "address the increased requirements of the new business environment arising from the introduction of the RRFE, as well as the addition of smart meters and technological improvements".[40] OEB Staff suggest that these pressures are inherent to all LDCs and that approving increases in excess of those approved for other LDCs would be inappropriate. Intervenors also suggest that the proposed OM&A increase should be denied on the basis that Grimsby Power requested, and was granted, a significant increase in OM&A in its 2012 Cost of Service application.

Grimsby Power's reply:

Grimsby Power submits that the OEB Staff and intervenor approach is incorrect in a number of ways. First, with respect to the Staff suggestion that all LDCs are facing similar pressures, Grimsby Power submits that this suggestion fails to recognize that all LDCs are at a different point in their evolutions and that all LDCs do not currently have the same service offerings. During the oral hearing, OEB counsel asked the following question of Mr. Curtiss:[41]

> "MS. DJURDJEVIC: Yes, just one more question about the -- in your statements yesterday on the transcript, page 146.
>
> So the discussion was about, you know, your position, your -- that you are severely disadvantaged, quote-unquote, and a low-cost utility, and you are not providing the same services as some of the neighbouring utilities.
>
> Could you expand on that and tell us what kind of services Grimsby is not providing?"

In his response,[42] Mr. Curtiss referred to a number of items including outage management, outage communications with the customer, a recently implemented ERP system, distribution automation, and SCADA.

Second, with respect to the increase in OM&A granted in Grimsby Power's 2012 Cost of Service application, Grimsby Power submits that in addition to the services mentioned above, the business environment within the regulatory framework is constantly changing, and many of these items are listed in the Application.[43] Since the Application was filed a number of new or in

[40] EB-2015-0072 – OEB Staff Submission, July 29, 2016, at p.6
[41] EB-2015-0072 – Tr. vol. 2, p.14
[42] *Ibid.*, at pp.14-16
[43] Application, December 23, 2015 – Exhibit 1 – pp.79-81

process initiatives have been brought forth which may have implications for utility operations and costs, such as:

- EB-2016-0179 – NOP Complaint Response Process;
- Ontario's Green Button Policy Development;
- EB-2015-0148 – OESP Guideline for Electricity Distributors and Unit Sub-Meter Providers;
- EB-2014-0148 – Consultation on the Development of Corporate Governance Guidance for OEB Rate-Regulated Utilities;
- ESA Public Consultation – Impact on Adjusting Regulation 22/04;
- EB-2015-0247 – Mandatory Record Retention Period Policy for Regulated Entities;
- EB-2015-0006 – Elimination of Load Transfer Arrangements – Proposed Amendments to Distribution System Code;
- EB-2015-0043 – Rate Design for Commercial and Industrial Customers;
- OEB Review of Processes and Practices Related to Global Adjustment and Regulated Price Plan Settlements; and
- EB-2014-0219 – Report of the OEB, New Policy Options for the Funding of Capital Investments.

All of these initiatives must be reviewed by the LDC to determine the impact to the utility and for those that have an impact projects must be created and implemented within the utility to meet the new expectations.

In Grimsby Power's oral hearing on OM&A in its 2012 Cost of Service Application, Mr. Curtiss was asked whether, if the OEB granted his requested increase in OM&A, he was anticipating similar increases in the coming years. Mr. Curtiss' response was as follows:

> "MR. CURTISS: The objective of our 2012 budget was to identify tasks, activities and service levels which would allow Grimsby Power to operate at a sustainable level. The resultant increase in costs is significant, but I believe it represents an accurate accounting of where Grimsby Power needs to be, provided that the utility environment is stable through the next four years.
>
> I would not anticipate any increases of this magnitude in the years to follow."

However, all of these initiatives (past and present) show that the business environment is in a constant state of change and this change, in Grimsby Power's case, requires new resources. The resulting impact is an increase to OM&A.

With the introduction of the RRFE in 2012 new expectations of LDCs have been set by the OEB. Grimsby Power has been engaged in meeting the OEB's Filing Requirements for its current (2016) cost of service proceeding since that release. It should be noted that the cost of service for 2012 rates did not include costs related to the new framework. It is for this reason that Grimsby Power has performed an in depth analysis of its resourcing requirements so that these requirements could be built into the new revenue requirement. The result of this analysis and the solutions to meet all of Grimsby Power's future requirements have been addressed in the revised OM&A request of $3,733,648. While the timing of this request has resulted in a significant increase in OM&A in the Test Year rather than a gradual increase in OM&A over time, Grimsby Power submits that its OM&A request as set out in this Application, including the timing of the proposed OM&A expenditures, is justified and supported by Grimsby Power's evidence in this proceeding.

PILs

Grimsby Power submits that there are two broad matters to be addressed within the PILs issue:

- the appropriateness of using actual PILs calculations for the 2015 Bridge Year, including the calculation and application of loss carry forwards, to reflect the actual 2015 tax return in a manner similar to other updates to the evidence to reflect 2015 actual data; and
- the question of whether loss carry forwards related to the former Niagara West Transformation Corporation should be applied to the shareholder or customers in this case.

Grimsby Power's submissions on these matters are set out below.

- **The use of actual PILs calculations for the 2015 Bridge Year**

As discussed in Grimsby Power's Argument-in-Chief, in Grimsby Power's initial Application as filed on December 23, 2015, the 2016 Test Year PILs calculation was based on the OEB's PILs model. at that time, Grimsby Power showed a total loss carry forward of $834,468, consisting of actual loss carry forwards available as of December 31, 2014 of $712,155 for Grimsby Power and the former NWTC; and a forecasted tax loss for the 2015 Bridge Year of $122,313, calculated using the OEB's PILs model, which calculated gains and losses for tax purposes on a regulatory basis. Grimsby Power divided the $834,000 by 5, in order to normalize the loss carry forward value over 5 years, and the result was used to reduce taxable income and the resulting PILs for 2016.

In response to interrogatories the 2015 Bridge Year data (in various tables) was updated to reflect actual results. Ms. Domokos gave a few examples of updated items – those included OM&A, load forecast and capital additions and depreciation, but in his evidence, at slide 6 of his presentation made during Evidence-in-Chief (Exhibit K1.2), Mr. Picard identified almost 20 updates that were made in response to interrogatories, and this led to the April 2016 update to the Application that included an update to the PILs model – that update was also made to reflect actual results.

Updates included, among other items:

- Revenue and Expenses;
- OM&A;
- Capital Expenditures;
- Fixed Assets Continuity Schedule;
- Load Forecast;
- Customer/Connections by Rate Class;
- Annual Usage;
- Annual Billed kW and kwh;
- Revenue;
- Energy Purchased;
- Employee Costs;
- Intercompany Transactions;
- Bad Debts; and
- LRAM.

It also included an update to the data in the PILs model. However, the outcome from PILS on a regulatory basis did not match Grimsby Power's actual tax return. At that time GPI did not believe this to be an issue, since the actual 2015 tax return did not show a negative taxable income and the only tax item that impacted the 2016 Test Year was the actual level of loss carry forward amount[44].

As Ms. Domokos explained, the OEB's PILs model does not accommodate actual data for the Bridge Year. It omits items such as the activity associated with deferral and variance accounts, even though that activity is included in the actual tax return. The problem can be explained as follows: The starting point for Loss Carry Forwards ("LCF") in the PILs model is the balance of the LCF available at the end of the historical year – in this case, as per the 2014 tax return. The balance is already adjusted by the LCF used for tax purposes in the historical year. If, in the historical year, the tax return showed a gain before taxes, derived from deferral and variance accounts (DVA), the available LCF is used to offset the gain.

The model treats the Bridge Year differently. In Grimsby Power's case the LCF amount of $1,190,808 (mostly generated from DVAs) available at the end of the 2014 historical year was reduced by applying a carry back of $ 955,881 that reduced 2012 and 2013 PILs. The LCF amount left to be used in the PILS model was $234,921. While the model provided for the adjustment in the historical year (this had the effect of reducing the LCF into the Bridge Year), the model does not accommodate the adjustment in the Bridge Year even if the actual LCF figures for the Bridge Year are available.

Ms. Domokos made a number of changes to the model in order to accommodate actual results for the 2015 Bridge Year.

Based on actual 2015 results, which reflected an increase in the income before taxes compared to the Application, the total losses available for the 2016 Test Year were reduced to $391,821, again comprised of two elements, but the values of those elements had changed from the original Application:

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[44] Transcript Vol 1, July 13, 2016, page 14 line 25-28

- actual loss carry forwards available as of December 31, 2014 of $765,394 for Grimsby Power and the former NWTC;
- minus an actual tax loss carry forward used in the 2015 Bridge Year in the amount of $373,573.

As with the original calculation, Grimsby Power divided the $391,821 by 5, in order to normalize the loss carry forward value over 5 years, and once again, the result was used to reduce taxable income and the resulting PILs for 2016.

As Ms. Domokos testified, the PILs issue remained unsettled and Grimsby Power sought the advice of KPMG, and more particularly Mr. Michel Picard, on the matter of the use of actual vs. regulatory (forecasted) data in the calculation of PILs for the 2015 Bridge Year.

KPMG supported the use of the actual calculation of PILs for the 2015 Bridge Year together with the use of the actual loss carry forward amounts available on December 31, 2015.

Mr. Picard, whom the OEB hearing panel recognized as an expert in regulatory accounting, confirmed in his testimony the findings of the KPMG Report in this regard. At page 4 of that report, KPMG concluded that: "It would be unreasonable to update the [Grimsby Power] application to reflect actual revenue and expense figures for 2015, but not to similarly update estimates of income before tax, [PILs] and of tax loss balances to reflect the impact of the changes made to revenues and expenses at intervenors' requests. To do so would reflect only a partial consideration of relevant parameters."

OEB Staff and Intervenor submissions:

OEB Staff agree that it is appropriate for Grimsby Power to use the actual tax filing in the PILs model for historical and Bridge Years because actual taxes are meaningful for calculating items such as LCF and Undepreciated Capital Cost[45]. Board Staff also noted that "Grimsby Power has appropriately applied the OEB policy by excluding DVA's when calculating PILs in rates for the test year and onwards"[46] However, OEB Staff do not agree with Grimsby Power that DVAs

[45] OEB Staff Submission, July 29, 2016, page 12
[46] OEB Staff Submission, July 29, 2016, page 13

should be included in the PILs calculation for the Bridge Year, notwithstanding that the DVAs are included when the actual Bridge Year tax return is prepared and actual Bridge Year taxes are calculated. Similarly, Energy Probe submitted that "the Board should disallow the inclusion of regulatory assets in the 2015 PILs calculation and that the loss carry forward calculation should reflect this elimination."[47]

Grimsby Power's reply:

Grimsby Power respectfully submits that it is neither reasonable nor appropriate for OEB staff and the intervenors to expect Grimsby Power to update a multitude of elements of its Application to reflect actual 2015 and 2016 data (which on the whole works to reduce Grimsby Power's proposed revenue requirement) while demanding, on the other hand, that Grimsby Power maintain a necessarily inaccurate calculation of its PILs position. Grimsby Power maintains that any update to its evidence and the revenue requirement for the 2016 Test Year that is performed in order to include actual data must include the use of actual figures from Grimsby Power's 2015 Tax return. Moreover, the update must accurately reflect the methodology used to calculate Grimsby Power's taxes. In other words, PILs should be updated to reflect 2015 the actual tax return, and DVA balances should be included in the PILs calculation, because that is how taxes are in fact calculated. The removal; of DVA information from the PILs calculation, while updating all other data used in that calculation, is not appropriate. In effect, OEB Staff are creating a hybrid approach to PILs, in which data is updated but DVA balances are removed. Grimsby Power respectfully submits that there is no basis for picking certain features of the regulatory approach to calculating PILs while updating the model for actual results.

- **The appropriate treatment of LCFs related to NWTC**

Ms. Domokos and Mr. Picard testified that during Grimsby Power's discussions with KPMG on the outstanding PILs issue, KPMG suggested that in its opinion, the shareholder should be the beneficiary of the loss carry forwards attributable to the former NWTC, and not the rate payer. This was because PILs had never been included in NWTC's transmission rate. In 2005 and 2008, NWTC had received interim rates that were essentially used as placeholders and were not

[47] Submissions of Energy Probe Research Foundation, July 29, 2016, page 28

based on NWTC's cost of providing transmission services;[48] and in NWTC's Application for 2011 Transmission Rates – the last rate application before NWTC was consolidated with Grimsby Power – NWTC was explicit about the fact that no PILs were assumed in that application "since NWTC has previous losses carried available to offset the 2011 PILs requirement."[49]

In other words, NWTC's customers, which included NPEI and Grimsby Power, had not incurred PILs-related costs as part of the transmission rate, and they should therefore not receive the benefit of the LCFs attributable to NWTC.

Grimsby Power advised the OEB on June 26, 2016 that it intended to file an update to its written evidence that would address the appropriate use of loss carry forwards on the determination of the PILs component of the Test Year revenue requirement, including without limitation loss carry forwards related to the former NWTC, which amalgamated with Grimsby Power in 2015; and the use of loss carry forward values reflecting actual results rather than those calculated on a regulatory basis. Grimsby Power advised that due to the complexity of the PILs issue Grimsby Power had retained a third party expert to provide an opinion on the relevant factors.

On June 27, 2016, the OEB issued Procedural Order No.2, which provided for the filing of the update by June 29, 2016 (Grimsby Power met this deadline); a Technical Conference to be conducted on July 6, 2016; a deadline of July 8, 2016 for the filing of responses to Undertakings; and the dates for oral hearing itself. While SEC has expressed concern about the filing of this additional evidence, the fact is that SEC was given two opportunities (the Technical Conference and the hearing) to test it. Grimsby Power gave 18 undertakings during the Technical Conference, and filed its responses to them by the OEB's July 8th deadline.

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[48] See KPMG's June 29, 2016 Report on *Grimsby Power Incorporated: Review of Rate Setting Implications of Tax Losses Carry Forward*, filed as part of the Grimsby Power June 29th evidence update, at p.4, available at: http://www.rds.ontarioenergyboard.ca/webdrawer/webdrawer.dll/webdrawer/rec/533377/view/

[49] EB-2010-0345 – NWTC Application, at p.6 of 66, available at: http://www.rds.ontarioenergyboard.ca/webdrawer/webdrawer.dll/webdrawer/rec/224038/view/

OEB Staff and Intervenor submissions:

Put simply, OEB Staff and the intervenors do not support the Grimsby Power approach to the NWTC LCFs. The reasons include the submission by OEB Staff and SEC that the NWTC transmission rate in the years prior to 2011 included a PILs component, because the rate was based on the Uniform Transmission Rate,[50] and that therefore, the NWTC rate established by the OEB in 2011 did in fact include a PILs component as it was intended to cover all of NWTC's costs. Other concerns expressed by OEB Staff and intervenors included the assertion that in the application to the OEB for approval of the consolidation of NWTC and Grimsby Power (EB-2014-0334), Grimsby Power indicated that NWTC tax losses would be incorporated into the test year of Grimsby Power's next cost of service application;[51] and that if Grimsby Power customers were not given the benefit of the NWTC LCF, it is no longer clear if the "no harm" test would be met in the consolidation proceeding. OEB Staff and other intervenors reject the Mr. Picard's conclusion that the OEB's Decision in the Great Lakes Power proceeding, in which the OEB chose to not require a utility to apply a tax LCF to regulated taxable income, supports the conclusion that the benefit of the NWTC LCFs should not accrue to the Grimsby Power rate payers. Finally, OEB staff suggest that because the inclusion of the LCF translates into a revenue requirement impact of only $20,000 per year for the five years of the rate-setting plan where Grimsby Power's materiality threshold is $50,000, the OEB may wish to consider denying the Grimsby Power request based on materiality alone.

Grimsby Power's reply:

Grimsby Power maintains that the NWTC-related LCFs should accrue to the shareholder. Grimsby Power supports the conclusions arrived at by Mr. Picard, recognized by the OEB as an expert in regulatory accounting, and does not intend to repeat those conclusions and Mr. Picard's analysis here. Grimsby Power has the following brief comments in response to the matters raised by OEB staff and the intervenors.

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[50] At page 13 of the NWTC Application in EB-2010-0345, NWTC indicated that "The current NWTC transformation connection rate of $1.50 per kW was established in March 2005 and was set at the time equal to the Hydro One rate for transmission transformation connection service."
[51] See the Grimsby Power/NWTC response to NPEI interrogatory 2(k) in EB-2014-0344, available at http://www.rds.ontarioenergyboard.ca/webdrawer/webdrawer.dll/webdrawer/rec/465269/view/

It is very clear that in 2011, when NWTC applied for a transmission rate based (for the first time) on its forecasted cost of service, NWTC explicitly indicated that there was no PILs component in the rate. Accordingly, Grimsby Power submits that there is no evidence to suggest that NWTC customers were paying PILs. Accordingly, with Grimsby Power customers not incurring the PILs cost, it is not appropriate that they incur the benefit.

SEC refers to the OEB's Decision in the recent OPG proceeding related to payment amounts for prescribed generation facilities (EB-2013-0321), in which the OEB noted (in dismissing OPG's assertion that LCFs should not be used to benefit the rate payer) that loss carry forwards are routinely used to reduce income to be included in rates, but that case is distinguishable from the current case. In that case, OPG had earned less than it anticipated and sought to retain the benefit of the LCFs. However, it was clear to the OEB that the existing rate in respect of those facilities had included a PILs component. Therefore, where customers had borne the burden of PILs-related costs, they should also receive the benefit of the LCFs. Once again, that is not the case here – there was no PILs burden in the 2011 NWTC rate.

Grimsby Power maintains (in agreement with Mr. Picard and for the reasons set out in the KPMG Report – see pages 9-11 of the KPMG Report) that its situation is more analogous to that of Great Lakes Power (EB-2007-0744). In that case, the benefit of LCFs flowed to the shareholder because recovery from customers of the operating losses that led to these tax loss balances was not allowed. At pages 43-44 of the GLPL Decision[52], the OEB stated:

> "The Board finds that pre-2007 losses of the distribution business should not be used to eliminate the tax provision for the 2007 test period. The Board reiterates its view that the benefits of a tax loss should be realized by the party – shareholders or ratepayers – that bore the expenses or losses that gave rise to the tax loss. Since the Board has denied recovery of the amount accrued for rate mitigation in account 1574, the resulting losses should not be attributed to ratepayers but rather to GLPL, which sustained those losses and should retain the related tax benefits."

The NWTC-related losses were borne by the shareholder, and not the customer – accordingly, the LCFs should accrue to the shareholder, and not to the customer.

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[52] Available at:
http://www.rds.ontarioenergyboard.ca/webdrawer/webdrawer.dll/webdrawer/rec/88205/view/

With respect to the comments regarding the NWTC/Grimsby Power MAADs proceeding, Grimsby Power acknowledges that during that proceeding, Grimsby Power gave the following response to NPEI Interrogatory 2(k):

> **(k)** Will GPI receive any tax benefits, such as NWTC non-capital losses, from the transaction? If so, please specify the benefits including the amount and how such benefits will be allocated to consumers.
>
> **Answer:** NWTC has non-capital losses available which could be applied to provide a tax benefit. However, it is not known at this time when it would be best to utilize these losses in a tax filing. As referenced in the Application at Section 1.6.2 (3) rate making implications are the subject of GPI's next cost of service application.
>
> GPI will receive these non-capital losses as part of amalgamating both entities. It is anticipated that these non-capital losses will be incorporated into the test year of GPI's next cost of service application. They will be considered in the calculation of Payments In Lieu of Taxes (PILs) and allocated to each customer class consistent with the method to allocate PILs to each customer class.
>
> It is noted that the analysis outlined above in 2(a) does not take into account any tax losses in Case B. The full details on how tax losses will be incorporated into the rate model are not currently available. As result, the impact of tax losses was not incorporated into the revenue requirement calculation for Case B referenced in 2(a). Regardless of their application the incorporation of tax losses into the revenue requirement would benefit all customer classes.

That response has been used as the basis for assertions that Grimsby Power must now pass the benefit of the LCFs on to ratepayers. Grimsby Power did, however, make it clear in that response that "As referenced in the Application at Section 1.6.2 (3) rate making implications are the subject of GPI's next cost of service application." We are now at that that point, and Grimsby Power submits that this is the appropriate time to consider the proper allocation of the LCFs. On the basis of further review of this issue in the (proper) context of a rate proceeding, Grimsby Power has concluded that the LCFs should accrue to the shareholder.

With respect to the OEB Staff suggestion that the "no harm" test may not be satisfied if the LCFs were now allocated to the shareholder, Grimsby Power does not intend to reargue the MAADs proceeding here. However, Grimsby Power submits that in its Decision on the MAADs application[53] the OEB made the following finding:

> "The Applicants have projected annual cost savings from the transaction of approximately $35,000 resulting from eliminating additional administrative costs associated with a duplicate administrative structure and an additional layer of transmitter-related regulatory compliance."

OEB Staff, at page 19 of their submission, confirm that "the evidence provided at the oral hearing indicates that inclusion of the tax LCF translates into the revenue requirement impact of approximately $100,000 spread over the 5 year rate-setting plan – $20,000 per year." Accordingly, even from a purely mathematical perspective, there are net financial savings accruing to customers as a result of the consolidation. This is in addition to operational and regulatory efficiencies that have resulted from the consolidation. As Mr. Curtiss indicated during the oral hearing:

> "I think it's important to note that, you know, the amalgamation of Grimsby and Niagara West, there was discussion of this in the last rate application of Niagara West. Niagara West had a lot of regulatory issues, and I believe it was suggested in that proceeding that it would be beneficial for Niagara West to become a distribution asset in order to clean up some of the regulatory issues that it faced that were likely not going to get solved otherwise."[54]

Finally, with respect to submissions on the matter of materiality, Grimsby Power submits that its proposed treatment of the LCFs should not be dismissed simply because the value of this item is small. The question with respect to the NWTC LCFs is whether the party that bore the costs that resulted in the LCFs should be permitted to retain the benefit of the LCFs. In Grimsby Power's submission, the correct answer in this case, and the answer that is consistent with Board policy, is that having incurred the costs, it is the shareholder that should be permitted to retain the benefit of the LCFs. The size of that benefit is not relevant.

In summary with respect to PILs, Grimsby Power submits that its PILs calculation filed in its June 29th, which reflects the use of actual figures from GPI'S 2015 tax return, the calculation of

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[53] EB-2014-0344, at page 5, available at:
http://www.rds.ontarioenergyboard.ca/webdrawer/webdrawer.dll/webdrawer/rec/471337/view/

[54] Tr. Vol 1, at p. 89

the LCF for December 31, 2015 on an actual basis, and the removal of LCFs attributable to the former NWTC, represents the appropriate PILs calculation for the purpose of establishing Grimsby Power's 2016 Test Year revenue requirement and rates.

While the result of these adjustments as they relate to LCFs is that there are no LCFs available for the 2016 Test Year, Grimsby Power submits that in the circumstances of this Application this is a reasonable and appropriate outcome.

EFFECTIVE DATE:

Grimsby Power submitted its Cost of Service Application December 23, 2015. The OEB issued its acknowledgment letter on January 6, 2016. The OEB issued its Letter of Direction and Notice on March 3, 2016.

In the oral hearing Grimsby Power stated its main reason for the late filing.

> "MR. CURTISS: There are many reasons for being late. The main reason, as you are aware from this morning's discussions, we did amalgamate with Niagara West Transformation Corporation. We received a decision, I believe it was in March of 2015. It took us until the October 1st date in two-15 to get all of the necessary legal documents together, et cetera, et cetera, so that we could actually combine the two companies and start the legal -- the new legal entity based upon October the 1st.
>
> We did not want to file an application before that effective date took place, because we felt that that would have made for a very complicated situation where we weren't technically amalgamated at the time of our submission, so we definitely wanted to wait until that actually transpired, that transaction."

Grimsby Power submits that it was reasonable to complete the consolidation prior to the finalization and filing of its Cost of Service Application. In the Application, Grimsby Power requested interim rates effective May 1, 2016 pending the implementation of the Board approved 2016 distribution rates, although it would maintain a January 1st rate year for 2017 and beyond. Grimsby Power submits that that approach to an effective date – whereby it would forgo four months of incremental revenue – was reasonable in the circumstances.

Through its Argument-in-Chief, Grimsby Power had maintained its request for a May 1st effective date. On July 15th, 2016 the OEB issued Interim Rate Order and Procedural Order No.3 declaring rates interim as of July 14, 2016. Having considered the submissions of OEB

Staff and the intervenors in this regard, Grimsby Power believes that July 14, 2016 would be an appropriate effective date with an implementation date on the first day of the month following the Board's Decision. As part of the Draft Rate Order, Grimsby Power would prepare a rate rider that would enable it to recover forgone incremental revenue from July 14th to the implementation date of the 2016 Rate Order.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 9TH DAY OF AUGUST, 2016