



BY EMAIL and RESS

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2300 Yonge Street
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March 4, 2019
Our File: EB20180056

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2018-0056 – NOTL 2019 Rates – SEC Final Argument

We are counsel to the School Energy Coalition ("SEC"). Pursuant to Procedural Order No. 5, please find SEC's Final Argument.

Yours very truly,
Shepherd Rubenstein P.C.

Original signed by

Mark Rubenstein

cc: Wayne McNally, SEC (by email)
Applicant and interested parties (by email)

ONTARIO ENERGY BOARD

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 Niagara-on-the-Lake Hydro Inc. for an Order or Orders approving or fixing just and reasonable distribution rates effective May 1, 2019.

**FINAL ARGUMENT OF THE
SCHOOL ENERGY COALITION**

Overview

1. Niagara-on-the-Lake Hydro Inc. (“NOTL”) has filed an application for approval of distribution rates effective May 1, 2019. Most of the application was settled by way of a Settlement Proposal which has subsequently been approved by the Board. A number of aspects of the application were unable to be resolved by way of settlement.

2. The unsettled aspects of the application can be placed into three broad categories. First, the proposed costs related to the underground conversion/rebuild program and the test year Operations, Maintenance, and Administration (“OM&A”) budget. Second, NOTL’s long-term debt, specifically those entered into with its shareholder. Lastly, matters of Board policy, such as the treatment of the ICM rate rider in the Cost Allocation Model, gross load billing of retail transmission rates, and the disposition period of Group 2 deferral and variance accounts.

3. This is the Final Argument of the School Energy Coalition (“SEC”) on these unsettled matters.

Underground Conversion/Rebuild Program

4. The only outstanding item related to NOTL's capital spending relates to costs related to its underground conversion/rebuild program. NOTL has spent \$915K on this program since 2014, with an additional \$460,000 proposed for the test year.¹ With agreement of the intervenors, NOTL filed additional evidence on the program.²

¹ Interrogatory Response Supp-Staff-2(d). SEC notes that historic numbers do not appear to match those in 2-SEC-18, where the total amount between 2014 and 2018 is \$1.29M.

² Settlement Proposal filed January 10 2019, p.9 ; Exhibit 2 – Additional Evidence - Rate Base, Underground Voltage Conversion

5. After reviewing the additional evidence, SEC does not oppose the program in its entirety, but does submit the Board should reduce the proposed test year budget.

6. Much of the initial concern with the program was NOTL's response to interrogatory 2-VECC-7. NOTL was asked in interrogatory 2-VECC-7 to provide a copy of the by-law that it had previously claimed required it to underground any new or rebuilding infrastructure. In response, it stated that the by-law does not actually exist and that it "suspects this may be the local equivalent of an urban myth."³ SEC found the response troubling, since NOTL had appeared to rely on the existence of a municipal by-law requiring it to underground its infrastructure in certain areas of its service territory.⁴ The additional evidence pointed to a by-law passed two decades ago by the NOTL Hydro Electric Commission, which was adopted as a policy by the initial directors of the NOTL during its formation as a corporation.⁵ A hydro commission by-law is no different than a resolution of the Board of Directors. It is not the same as a municipal by-law and has no legal force.⁶ It is not a justification, in and of itself, for rebuilding overhead assets by undergrounding.

7. NOTL's customer engagement evidence provides contradictory views on the program. The quote cited in NOTL's Argument-in-Chief from the May 2018 customer engagement report, gives the impression that there is clear support from the program.⁷ A review of the full report indicates that customers' views appear to be much more measured. Earlier in the report, there is a summary on the discussions participants had on the issue of underground lines. It includes direct references to customers being concerned with costs and also that the work should not be done for cosmetic reasons:

However, customers commented that overall, underground lines should be a matter of efficiency, not cosmetics. They are a very expensive proposition and Niagara On The Lake Hydro has to be cautious in rolling them out. When it comes a [sic] cost vs. benefit analysis, the benefit appears too small and is not a priority.⁸

8. It is unclear if the level of proposed spending takes into account customers' views that the proposed work is being done as a matter of efficiency only, and at a level of spending that meets their expectations.

³ Interrogatory Response 2-VECC-7(c)

⁴ EB-2018-0056, Exhibit B, Appendix B, p. Interrogatory Response 2-VECC-7(c)

⁵ Interrogatory Response SEC-Supp-35

⁶ Exhibit 2 – Additional Evidence – Underground Voltage Conversion, p.2-4

⁷ Argument-in-Chief, para.33, citing Exhibit A, Appendix 1H, p.13

⁸ Argument-in-Chief, para.33, citing Exhibit A, Appendix 1H, p.4

9. NOTL has historically underspent compared to its proposed budget on this program. Between 2014 and 2018 NOTL has spent just under 50% of the amount set out in its previous distribution system plan.⁹ On that basis the Board should only approve 50% of the forecast expenditures. This would result in a reduction of \$230K.

OM&A

10. **Summary.** NOTL is seeking approval of an OM&A budget of \$2.96M in 2019. This represents a 38% increase from its 2014 Board approved amount.¹⁰ It represents an average, year-over-year, increase of 7.34%. SEC submits this increase is unreasonable and unsupported by the evidence. As discussed in greater detail below, the Board should reduce the proposed test year OM&A by \$374,500.

11. NOTL's argument on the reasonableness of its proposed OM&A budget is based almost entirely on the additional evidence it filed after the settlement conference, which not precipitated by any changes to the forecast or circumstances.¹¹ The evidence tries to demonstrate that the proposed 2019 OM&A budget is exactly where it should be, based on a formula it has determined that accounts for inflation and growth, then adjusted for changes in accounting standards, and increased to account for new services.

12. What is clear from the approach is NOTL is simply trying to find some methodology that it can use to justify its significant increase in OM&A costs. This high-level envelope justification sets out in the additional evidence and relied upon in its Argument-In-Chief is *entirely different* than the one it provided for in its pre-filed evidence and interrogatory responses.¹²

13. SEC addresses each of these 'buckets' that justify the reasonableness of its test year OM&A budget as set out in the additional evidence and Argument-In-Chief¹³:

⁹ 2.0-VECC-53(b)(c)

¹⁰ Appendix 2-JA. At footnote 33 of its Argument-in-Chief: NOTL takes the position that the Board should disregard the 2014 Board-approved amount in favor of 2014 actuals as the Board-approved amount was the result of a settlement which included an agreed upon reduction of \$75,455 from the requested amount. SEC disagrees. The Board amount is not just what the Board approved in the approving the settlement, but was more importantly, what NOTL itself agreed to in the settlement represented a reasonable amount.

¹¹ Interrogatory Response 4-VECC-50

¹² Ex.4, p.7, Table 4.6; Interrogatory Response 4-SEC-29. SEC assumes this was done since the analysis provided in the pre-filed evidence made very little sense. For example, NOTL attributed the 20.3% increase in OM&A to growth. It did so by averaging percentage increase customers, load, and asset value.

¹³ Argument-in-Chief, para. 49-58

- i. ***Inflation and Growth.*** NOTL's approach to the inflation and growth portion of its OM&A increase is to adjust the 2014 Board-approved annual by using the Board's annual inflation factor, minus the company specific stretch factor, plus an amount for growth.¹⁴ This is similar to how the Board has previously approved the total OM&A for a distributor. In the Board's *Decision and Order* in EB-2016-0061, it determined that the appropriate OM&A budget or Canadian Niagara Power's budget is one that, at most, is close to the level of inflation reduced by the stretch factor plus an amount for customer growth.¹⁵ NOTL's treats this as just a small part of the overall increase.

NOTL's proposal for an inflation and growth adjustment goes farther than what the Board approved in the EB-2016-0160 *Decision and Order*. NOTL proposes the OM&A inflation and growth adjustment should include kwh and peak demand growth, using a similar approach to customer growth derived from the PEG benchmarking model. The problem is that the PEG model is based on total cost not OM&A costs. While load and system peak growth do impact costs, there is no evidence that they materially impact OM&A as opposed to capital costs. In fact, the evidence appears to indicate the opposite. For NOTL, it has made significant capital investments related to increases in system peak over the last number of years.¹⁶ Whereas, when asked to point to actual OM&A costs that have increased due to kwh and system peak growth, it could not point to any actual costs.¹⁷ Further, if kwh and system peak growth these were drivers in OM&A costs, then one would expect to see it in the operations and maintenance categories of spending as it would involve increase work on new assets. But the evidence shows the increase in OM&A costs since 2014 have occurred primarily in the administrative and general category.¹⁸ Those categories should not be impacted by increased in kwh or system peak growth, but may be impacted by increasing customer growth.

¹⁴ Exhibit 4 - Additional Evidence – OM&A, p.8-15

¹⁵ *Decision and Order* (CNPI 2017 - EB-2016-0061), December 9 2017, p.5

¹⁶ For example, since the last rebasing NOTL has added a new transformer at its transformer station which was substantial enough in cost that it required an ICM (Exhibit 2, p.51). In addition, NOTL will be installing another 83 MVA transformer (See, Exhibit 2, p.52).

¹⁷ Interrogatory Response SEC-Supp-41

¹⁸ Exhibit 4, p.5

Table 4.2: 2014 Board Approved vs. 2019 Test Year OM&A

	Board Approved	2019	Change
Operations	\$532,044	\$715,973	\$183,929
Maintenance	\$416,132	\$449,790	\$33,658
Billing and Collecting	\$534,260	\$632,867	\$98,608
Community Relations	\$17,800	\$11,485	-\$6,315
Administrative and General	\$655,026	\$1,164,070	\$509,044
Total	\$2,155,262	\$2,974,186	\$818,923
%Change (year over year)			38.0%

- ii. **Accounting Adjustment.** SEC accepts that the accounting adjustment made to the Board approved amounts that reflects the changes in capitalizing of certain executives due to the transition to IFRS is appropriate.
- iii. **Additional Services.** NOTL argues that even when one includes inflation and growth, the increase still does not account for the new and additional services that it believes it should provide. SEC submits it may be that some additional funding over the inflation and growth amounts are appropriate, but that most of those costs should be included with that budget. Customers expect their utility to offset additional services which it may want with additional efficiencies and productivity improvements. The impact of the measures it had previously taken are unknown. NOTL admittedly could not quantify many of the savings achieved.¹⁹ With respect to test year productivity initiatives, the response to interrogatory 1-SEC-6 appears to indicate that it does not expect to be a focus on any in 2019 due to other matters. For the initiatives it does have, they appear to have a minor impact on its OM&A costs and the savings have not been estimated. In light of these facts, no additional funding should be approved.

14. **Comparison With Other Utilities.** Looking at just NOTL in isolation, its OM&A per customer has increased significantly from \$262 in 2015 to a forecast of \$307 by 2019.²⁰ While historically NOTL has had below average OM&A costs per customer, it appears that this has taken a turn in the opposite direction. Based on NOTL's own analysis, its OM&A per customer has been below all other LDCs (excluding Hydro One) until 2016, where the trend has shown a flattening of the increase in the sector as a whole.²¹ Yet, NOTL's OM&A per customer in 2017 was already higher than the sector. Based on its own forecast for 2018 and 2019 costs, the differential will increase.²²

¹⁹ Interrogatory Response 1-SEC-5

²⁰ Appendix 2-L

²¹ Interrogatory Response SEC-Sup-37

²² *Ibid*

15. NOTL places much emphasis on its low rates. SEC does not dispute that it has some of the lowest rates in Ontario, but that should be expected. Unlike most other utilities which have seen declining load and stagnant customer growth of the last few years, NOTL has seen a brisk increase in both.²³ This has allowed it to keep rates low as the increase in costs since the last rebasing year is offset by the increase in load. It is why it is important to look at the PEG total cost benchmarking which accounts for the increase load. The PEG benchmarking evidence reveals that while NOTL has low rates, it is not a top performer, but only a slightly above average one. Its cost are only slightly better than the model would expect a utility with its characteristics to have. It is forecast to remain in the test year in the Board's group 3 stretch factor cohort (+/- 10%).²⁴ The Board's rate-setting approach emphasizes continuous improvement, not regression to the mean.²⁵

16. **2018 Actuals.** NOTL points to its 2018 actual (unaudited) OM&A spending being close to its 2018 forecast as "persuasive evidence of the amounts actually required."²⁶ SEC submit it is only evidence that NOTL is able spend to its forecast budget. It does not demonstrate that the forecast budget itself was reasonable. This is especially the case when the 2018 actuals are increased over the previous year's OM&A amount by a staggering 11%.²⁷ An increase that is far from reasonable.

17. **SEC Approach.** SEC submits that determining a reasonable test year OM&A amount is looking at a reasonable aggregate amount. Dissecting each individual line item when the proposed increase is so large, is not helpful since it may be that any given cost item may be reasonable on its own, but added together they clearly are not.

18. A more appropriate methodology to determine the envelope amount is the method the Board used EB-2016-0061, where it approved an amount based on an annual adjustment to the previously Board-approved amount for inflation, productivity (stretch factor), and an amount for customer growth. SEC does accept that the 2014 Board approved year should be adjusted due to the accounting change. With the adjustments shown below, the Board should approve an OM&A budget of \$2,590,341, which represents a reduction of \$374,424 from the requested amount. SEC submits that this still provides for a significant

²³ Exhibit 3, p.9

²⁴ Exhibit 4 - Additional Evidence, Table 6

²⁵ *Report of the Board: Renewed Regulatory Framework for Electricity Distributors: A Performance-Based Approach* (October 18, 2012), p.2

²⁶ Argument-in-Chief, p.45

²⁷ Revised Appendix 2-JA, Appendix 1 to Supplementary SEC Interrogatories Responses

20% increase without the accounting adjustment, and 13.3% increase with the adjustment, since NOTL's last rebasing proceeding in 2014.

	Board Approved 2014 BA	Actual				Projected	
		2014	2015	2016	2017	2018	2019
Total OM&A Expenses	2,155,262	2,208,203	2,323,119	2,532,191	2,595,121	2,904,865	2,964,765
2014 Adjustment: IFRS (President and VP Operations Capitalized Labour)	130,784						
Adjusted Total	2,286,047						
Growth	2014	2014	2015	2016	2017	2018	2019
Customers (excludes Street Light and USL)	8,499	8,551	8,839	9,115	9,299	9,444	9,626
Customer Growth		0.62%	3.36%	3.13%	2.02%	1.55%	1.93%
Escalators	2014	2014	2015	2016	2017	2018	2019
Inflation (OEB)		0.00%	1.60%	2.10%	1.90%	1.20%	1.70%
Base Productivity		0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Stretch Factor (PEG Group 3)		0.00%	0.30%	0.30%	0.30%	0.30%	0.30%
Sub-Total		0.00%	1.30%	1.80%	1.60%	0.90%	1.40%
Customer Growth (Growth x PEG Elasticity of 0.4485)		0.28%	1.51%	1.40%	0.91%	0.70%	0.87%
Total Escalator (lines 20 - 21 - 22 + 24)		0.28%	2.81%	3.20%	2.51%	1.60%	2.27%
Adjusted OM&A - Based on Escalators	2,286,047	2,292,370	2,356,717	2,432,173	2,493,108	2,532,927	2,590,341
Reduction From Proposed						-374,424	
% Increase without Accounting Adjustment						20.19%	
% Increase with Accounting Adjustment						13.31%	

Long-Term Debt

19. There are two separate issues related to its proposed NOTL debt costs, i) the original promissory note which was renewed in 2018 and, ii) the proposed changes to two recent promissory notes. Both those notes are held by its shareholder, the Town of Niagara-on-the-Lake ("Town"), and because of that, the Board must consider the affiliate nature of the relationship in determining what reasonable actions NOTL should have taken.

20. As detailed below, the approach NOTL has taken with its affiliate debt is evidence, that with respect to its relationship with its shareholder, it does not properly consider the interest of its consumers. The Ontario Court of Appeal commented in *Toronto Hydro-Electric System Limited v. Ontario Energy Board*, that regulated utilities are not the same as normal companies. Regulated utilities must balance the interests of both shareholders and consumers and when they do not, the Board must step in:

The principles that govern a regulated utility that operates as a monopoly differ from those that apply to private sector companies, which operate in a competitive market. The directors and officers of unregulated companies have a fiduciary obligation to act in the best interests of the company (which is often interpreted to in the best interests of the shareholders) while a regulated utility must operate in a manner that balances the interests of the utility's shareholders against those of its ratepayers. If a utility fails to operate in this way, it is incumbent on the OEB to intervene in order to strike this balance and protect the interests of the ratepayers.²⁸

²⁸ *Toronto Hydro-Electric System Limited v. Ontario Energy Board*, 2010 ONCA 284, para 50

21. The concern regarding the affiliate relationship is even greater here when the utilities shareholder is also acting as its debtholder.

22. ***Original Promissory Note.*** NOTL has a promissory note with the Town, with a principle amount of \$2.1M that for rate-making purposes has been set at the Board's long-term debt rate of 4.13%.²⁹

23. The note was originally issued in 2000. The terms of the note provide that it would mature on August 1, 2018, and that the loan will be renewed for an additional 10 years, unless, written notice was provided 90 days prior to its maturity.³⁰ No party provided written notice and so the debt instrument is to continue for another 10 years.³¹ NOTL's evidence is that it "did not conduct any due diligence into alternative borrowing" [emphasis added].³² SEC submits that NOTL's approach was unreasonable. NOTL should have undertaken the necessary due diligence before it determined it would renew the note. Any due diligence would have almost certainly revealed that it could have received a much lower rate from a third-party, and potentially even the Town, if chose to renegotiate. Its own evidence is that just a few months later when the Town sought to renegotiate two other loans, the due diligence it conducted demonstrated that it could have received rates on a similar 10 year term at 3.48%.³³ Further, only 3 years earlier in entering into that loan, it received two new loans from the city at a rate of 3%.

24. On that basis, SEC submits at most, ratepayers should only be responsible for an interest rate of 3.48% on the note. It is the best available information on the record for what NOTL could have received if it properly considered its options when given the opportunity.

25. What is most troubling by NOTL's actions is that while for ratemaking purposes the Board's policy caps affiliate debt at the Board's long-term debt rate, it is actually paying the Town a rate of 7.25%.³⁴ This has an indirect effect on ratepayers since it does affect its corporate balance sheet and credit metrics, which would impact the terms and rates it could receive from other lenders. SEC does not understand how the Board of Directors of NOTL could agree to continue a debt instrument with an

²⁹ Exhibit 5, p.5

³⁰ Exhibit 5, Appendix A

³¹ Interrogatory Response 5-SEC-31

³² *Ibid*

³³ Interrogatory Response SEC-Supp-48

³⁴ Interrogatory Response SEC-Sup-49

interest rate that is more than double what it could get from a third-party. This is not in the best interest of the company or its ratepayers.

26. ***Renegotiation of Two Other Affiliate Notes.*** NOTL filed additional evidence updating its proposed 2019 cost of debt for two 2015 loans from the Town. NOTL's evidence is that the Town decided in late 2018 to exercise its option to call the loans and seek to renegotiate them at a higher rate.³⁵ NOTL has apparently agreed to a new rate of 3.5% on both loans to be effective March 1, 2019.³⁶ NOTL's evidence is that the 3.5% rate was agreed upon based on due diligence conducted with a Schedule A bank.³⁷

27. SEC has two major concerns with the revised proposed long-term debt rate.

28. First, if the Board accepts both the new rate and effective date, for ratemaking purposes the debt rates built into the test year should not be the 3.5%, but a lower amount reflecting the pro-rated portion of the test year in which the new higher rate would be expected to be in place. When asked to make this calculation in interrogatory SEC-Supp-48, NOTL responded that no change is necessary since the effective date is before the May 1st date of new electricity rates.³⁸ NOTL is incorrect. While rates are set on a May 1st to April 30th basis, the debt costs, like all other components of the revenue requirement, are calculated on a calendar basis.

29. Second and more importantly, there is no reason that NOTL should acquiesce to a March 1st effective date. The two loans require a minimum of 90 and 45 day notice respectively. As of the filing of the supplementary IRs on January 30th, legal notice had not been given.³⁹ In fact, the evidence is that the expectation is that notice will not be given until after the effective date of the new rates.⁴⁰

30. NOTL should be looking out for the interest of customers before that of its shareholder. If its shareholder is going to demand a higher interest rate, then the notice periods under the existing loans should not be waived. Ratepayers should only be responsible for the cost consequences of the higher rate 90 days and 45 days from when they are expected to be called. This would be early June and mid-April

³⁵ Exhibit 5 – Additional Evidence – Cost of Capital, p.5

³⁶ Interrogatory Response SEC-SUP-48

³⁷ Interrogatory Response SEC-Sup-46

³⁸ Interrogatory Response SEC-Supp-47(d)

³⁹ Interrogatory Response SEC-Supp-47(a)

⁴⁰ Interrogatory Response SEC-Supp-47(a)

for each of the two loans. Based on prorating the new higher rate, the annualized interest rates in the test year should be 3.29% and 3.35% respectively.

31. **Summary.** Based on the adjustments noted above to the three debt instruments, SEC submits the appropriate test year weighted long-term debt rate should be 3.65%, not the proposed 3.95%

Row	Description	Lender	Affiliated or Third-Party Debt?	Fixed or Variable-Rate?	Start Date	Term (years)	Principal (\$)	Rate (%)	Calculated Interest
1	Original Promissory Note	Town of NOTL	Affiliated	Fixed Rate	1-Jul-00	Open	\$ 2,098,770	3.48%	\$ 73,037.19
2	York TS Demand Installment Loan	CIBC	Third-Party	Fixed Rate	29-Aug-03	15	\$ -	6.03%	\$ -
3	NOTL TS Demand Installment Loan	CIBC	Third-Party	Fixed Rate	27-Oct-05	15	\$ 424,320	6.13%	\$ 26,010.81
4	Infrastructure Ontario Loan	Infrastructure Ontario	Third-Party	Fixed Rate	15-Feb-11	15	\$ 716,667	4.27%	\$ 30,601.68
5	Town loan - transformer	Town of NOTL	Affiliated	Fixed Rate	1-Feb-15	10	\$ 1,954,706	3.29%	\$ 64,342.41
6	Town loan - capital projects	Town of NOTL	Affiliated	Fixed Rate	1-Oct-15	10	\$ 1,430,402	3.35%	\$ 47,978.06
7									\$ -
8									\$ -
9									\$ -
10									\$ -
11									\$ -
12									\$ -
Total							\$ 6,624,865	3.65%	\$ 241,970.15

Policy Issues

32. SEC requests the Board provide guidance on three unsettled matters that relate to Board policy.

33. **ICM inclusion in Cost Allocation Model.** The unsettled matter regarding cost allocation and rate design related to the proper application of the Board's Cost Allocation Model ("CA Model"). Specifically, NOTL has proposed that its previously approved Incremental Capital Module ("ICM") rate rider be included as part of the CA Model within the calculation of revenue at current rates. NOTL's proposed approach is unique and inconsistent with usual practice. The inclusion or exclusion of the ICM rate rider in the calculation of revenue at current rates, impact NOTL's proposed rates.⁴¹

	Rates including ICM in Distribution Revenue at Current Rates (as filed in the Settlement Proposal)		Rates Excluding ICM from Distribution Revenue at Current Rates		Variance	
	Fixed Rate	Variable Rate	Fixed Rate	Variable Rate	Fixed Rate	Variable Rate
Residential	\$ 30.47	\$ -	\$ 30.97	\$ -	\$ (0.50)	\$ -
GS < 50	\$ 39.41	\$ 0.0133	\$ 39.41	\$ 0.0131	\$ -	\$ 0.0002
GS > 50	\$ 281.65	\$ 2.6169	\$ 281.65	\$ 2.4248	\$ -	\$ 0.1921
Unmetered	\$ 21.20	\$ 0.0072	\$ 21.20	\$ 0.0080	\$ -	\$ (0.0008)
Street lights	\$ 7.85	\$ 7.3887	\$ 7.85	\$ 7.3887	\$ -	\$ -
Large User	\$ 2,829.49	\$ 2.6169	\$ 3,790.12	\$ 2.4248	\$ (960.63)	\$ 0.1921

34. The CA Model allocates a distributors test revenue requirement to individual classes. It does so by allocating costs using various customer and demand factors. After doing so, the CA model compares

⁴¹ See Enclosure with NOTL Ltr to the Board, dated Feb 7 2019, NiagaraontheLake_IRR_SUPP_SEC_Impact of Including ICM_20190207.PDF

for each class the allocated costs, with the revenue each class would earn as ‘status quo’ rates, creating revenue to cost ratios. Revenue at ‘status quo’ rates is a calculation of the revenue generated at current rates for each class adjusted by a percentage (called the ‘d-factor’ within the CA model) to ensure the total equals the test year revenue requirement. Different distribution rates included in the calculation of the revenue at existing rates will result in a different d-factor.⁴²

35. If the ICM rate rider is originally designed by allocating costs to each class on any basis that differs from that of matching the percentage distributing revenue at the previous rebasing, then the differing d-factor required, will lead to different revenue to cost ratios. NOTL’s ICM costs for the purposes of the approved rate rider were allocated based on the same way that transmission connection costs are allocated.⁴³ Due to this there is a difference in the revenue to cost ratios depending if ICM rider is included or excluded from revenue at current rates.

36. The impact on rates occurs because insofar as the resulting revenue to cost ratios for any class are outside of the Board’s ranges, an adjustment is required to take place to bring them within the allowable range. In making the adjustment to classes outside of the range, there must be an offsetting adjustment to other classes to ensure that there is no over or under-collection of the test year revenue requirement. With respect to NOTL, the changes in rates depending on the scenario occur, because there is different revenue to cost ratios in which because some classes are outside of the range, require different adjustments.

Status Quo Revenue to Cost Ratios						
	Residential	GS <50	GS >50kW	Large User	Street Light	Unmetered Scattered Load
ICM Included	89.80%	110.63%	118.26%	80.86%	162.60%	114.02%
ICM Excluded	91.33%	109.91%	113.67%	70.58%	168.31%	116.27%

Source: Sheet 01, Row,75, Cost Allocation Models Enclosed with NOTL Ltr to the Board, dated Feb 7 2019

37. SEC has reviewed the records in seven recent proceedings in which a distributor first rebased (cost of service or Custom IR) after having an ICM approved during their preceding IRM term. In each case, the distributor proposed and the Board ultimately accepted (through settlement approval or full decision) that the calculation of revenue at existing rates only include the previously approved base distribution rates. SEC is not aware, and NOTL has not cited, any previous case where ICM rate riders were also included

⁴² See Enclosures with NOTL Ltr to the Board, dated Feb 7 2019, NOTLH 2019_Cost_Allocation_Model Includes ICM.XLSM_20190207.xlsx, Sheet 01, Row 25 and NOTLH 2019_Cost_Allocation_Model Excludes ICM_20190207.xlsx, Sheet 01, Row 25

⁴³ *Decision and Rate Order*, (EB-2014-0097 - NOTL ICM), March 19 2015, p.6

<u>LDC</u>	<u>ICM Proceeding</u>	<u>Rebasing Proceeding</u>	<u>ICM in Current Revenues?</u>
Toronto Hydro	EB-2012-0064	EB-2014-0116	No
Wellington North	EB-2013-0178	EB-2015-0110	No
Powerstream	EB-2013-0166	EB-2016-0003	No
Festival Hydro	EB-2012-0124	EB-2014-0073	No
Centre Wellington	EB-2011-0160	EB-2012-0113	No
Kingston Hydro	EB-2011-0178	EB-2015-0083	No
InnPower	EB-2014-0086	EB-2016-0085	No

38. NOTL's rationale for its proposed approach is that ICM rider represents collection of costs that are to be rolled into rates in the test year. In fact, the ICM rate rider calculation is to attempt to build into overall rates the costs of these assets, as if it were in base distribution rates. This rationale for including the ICM rate rider in revenue at existing rates has merit and is reasonable. But so is the current methodology of excluding the ICM rate rider. What is unreasonable is *why* NOTL is proposing this change to the existing practice. NOTL's proposal has little to do with improving the cost allocation process. As it admits in its Argument-in-Chief, "NOTL has made a proposal to reduce bill impacts for its largest class of customers."⁴⁴ NOTL's residential customers benefit from its proposal approach, but those in other customer classes, including schools, are worse off.⁴⁵ While it may claim that it is not unfairly treating other customer classes, the fact that it has sought out changes to the cost allocation methodology to reduce bill impacts for some customers and not others should give the Board some pause.⁴⁶

39. SEC submits the Board should reject the proposed change. Even though the both existing practice and NOTL's proposal are reasonable, the Board should side for consistency in how distributors do cost allocation. If not, then distributors will do what NOTL has done, and chosen a method which may favor one class of customers due to their size or influence, at the expense of other customers.

40. ***LRAMVA Disposition Period.*** NOTL originally proposed to dispose of balances in its LRAMVA over a 1 year period consistent with all of its other DVA Accounts. The one year disposition period is consistent with the Board's Filing Requirement.⁴⁷ NOTL has since changed its view and filed additional evidence, seeking to recover the amounts over a 2 year period. In view is that the 2 year disposition period is proposal is appropriate since it is what customers would prefer.⁴⁸

⁴⁴ Argument-in-Chief, para. 5

⁴⁵ Enclosure with NOTL Ltr to the Board, dated Feb 7 2019, NiagaraontheLake_IRR_SUPP_SEC_Impact of Including ICM_20190207.PDF

⁴⁶ Argument-in-Chief, para. 5

⁴⁷ Filing Requirements For Electricity Distribution Rate Applications - 2018 Edition for 2019 Rate Applications, Chapter 2, p.63

⁴⁸ Argument-in-Chief, para 81

41. It is usually only if there is a need to mitigate a rate impact of 10% or more on a total bill basis that DVA accounts disposed of over a period longer than one year. The proposed total bill impacts are below 10%.⁴⁹ SEC disagrees that customers would prefer to recover amounts over 2 years, when it is required to pay interest on the balance for an additional year, in circumstances where there is no need to mitigate or smooth bills. SEC submits the Board should reject NOTL's proposal, unless NOTL is willing to forego the collection of interest on the additional years balance.

42. **Gross Load Billing.** NOTL is seeking approval to have the Retail Transmission Rate – Line and Transformation Connection Service Rates for Load Displacement Generators ("LDG"), with a generator unit rating of 2 MW or higher for renewable generation and 1 MW or higher for non-renewable generation, applied on a gross load billing basis. This is consistent with how the IESO bills NOTL for Line Connection and Transformation Connection services as Hydro One applies gross loading billing on such terms.

43. There is a merit in aligning NOTL's collection from customers with how it is billed upstream. This ensures there are no cross-subsidies between customers. Yet, SEC notes that the Board in its recent decision in EB-2017-0038 commented when approving the Settlement Agreement which resulted in the withdrawal of a similar request by Erie-Thames Powerlines "the OEB agrees that [gross load billing] is a complex matter that is best considered under a policy review."⁵⁰

44. SEC is unsure what the expectations are of the Board at this time on distributors applying for gross load billing to clarify by way of a decision on this item.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

March 4, 2019

Original signed by

Mark Rubenstein
Counsel to the School Energy
Coalition

⁴⁹ Exhibit 9 – Additional Evidence – Deferral and Variance Accounts - p.3

⁵⁰ *Decision and Rate Order*, (ETPL 2018 - EB-2017-0038), November 1 2018, p.6