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BY EMAIL AND RESS

October 28, 2020

Ms. Christine E. Long
Board Secretary
Ontario Energy Board
Suite 2700, 2300 Yonge Street
P.O. Box 2319
Toronto, ON M4P 1E4

Dear Ms. Long:

EB-2020-0194 – Hydro One Networks Inc. Transmission Revenue Requirement and Distribution Revenue Requirement and Tax Issue – Future Tax Savings Evidence

Enclosed please find Hydro One Network Inc.'s ("Hydro One") submissions outlining options to implement the Ontario Divisional Court's decision in respect of the tax savings matter. These options are provided pursuant to the Ontario Energy Board ("OEB") in its Notice and Procedural Order No. 1 issued October 2, 2020.

As detailed in the submission, Hydro One is amenable to discussing this matter further with OEB staff and intervenors to determine whether a common position may be found in respect of the issues identified in the submission (pp. 19-20). Hydro One proposes such discussion take place on November 9 or 10, 2020 or as otherwise is reasonably proposed by the Board and parties.

An electronic copy of the evidence has been submitted using the Board's Regulatory Electronic Submission System.

Sincerely,

Frank D'Andrea

Frank D'Andrea

DEFERRED TAX BENEFIT OF DISPUTED TAX SAVINGS

1.0 BACKGROUND

In accordance with Ontario Energy Board Procedural Order No. 1 dated October 2, 2020, Hydro One Networks Inc. ("Hydro One") is filing this application to amend distribution and transmission rates revenue requirements to allow recovery of disputed tax savings amounts that have been the subject-matter of appeals before the Ontario Energy Board ("OEB" or "Board") and the Ontario Divisional Court since the issuance of Board Decision EB-2016-0160 ("Original Decision").

On July 6, 2020, the Divisional Court granted Hydro One's appeal and ordered that the impugned tax savings allocations be varied. The Court specified that "no portion of the Future Tax Savings should be allocated to ratepayers when the evidence is clear that [Hydro One] paid all of its costs under the stand-alone utility principle", and that "no part of the benefit of the Future Tax Savings is allocable to ratepayers and should instead be paid to the shareholders in its entirety." The purpose of this proceeding is to implement the direction of the Court that all of the tax savings be allocated to Hydro One's shareholders.

To achieve this result, two main amendments are proposed to Hydro One's approved rates revenue requirements: (1) the methodology used to calculate regulatory income taxes in rate periods in 2022 and after; and (2) implementation of temporary rate adjustments commencing in 2021 that are designed to recover disputed tax savings amounts allocated to ratepayers during the Appeal Period.[1]

[1] In this submission, "Appeal Period" pertains to the period between the effective date of the Original Decision (January 1, 2017) up to the decision reached in this proceeding. The disputed tax savings within the Appeal Period are referred to as "Misallocated Tax Savings Amounts".

This application is organized as follows:

- Section 2.0 provides a chronology summary of the events leading up to this proceeding.
- Section 3.0 discusses recovery methodology and recovery period options
- Section 4.0 details the nature of the relief sought.

In considering the recovery options available to it, Hydro One has borne in mind the current COVID-19 pandemic and its impact on Ontarians. The options included in this submission are designed to give the OEB flexibility in determining the recovery period, and to minimize rate impacts on customers.

2.0 CHRONOLOGY

On May 31, 2016, Hydro One applied under s. 78(7) of the OEB Act for approval of the 2017 and 2018 rates revenue requirements for its transmission business (EB-2016-0160) ("Original Application"). The applied-for amounts included the recovery of forecast income taxes calculated on a basis consistent with the provincial payment in lieu of taxes regime ("PILS Regime"), which was the tax scheme in place when Hydro One was owned outright by the Province of Ontario ("Province").

Hydro One exited the PILS Regime when the Province ceased to own 90% of its ownership interest in the company. Hydro One was deemed to have disposed of its assets at their fair market value ("Deemed Disposition") under the PILS Regime and immediately reacquired the same assets at the fair market value ("Deemed Reacquisition") for Canadian federal income tax purposes. Consequently, Hydro One was obligated to pay an amount known as the PILS Departure Tax calculated based on the Deemed Disposition. As an offset to this cost, the Deemed Reacquisition provided Hydro One with higher capital asset values that are used to calculate capital cost allowance ("CCA"). CCA is a permitted tax deduction and thus a tax savings. The value of future tax savings arising from the change in income tax schemes approximates to the value of the PILS Departure Tax payment made by Hydro One ("Future Tax Savings").

Hydro One's payment of the PILS Departure Tax was a consequence of the Province's decision to sell a portion of its ownership interests; it was not a cost related to the provision of rate regulated services. As such, Hydro One did not seek to recover the PILS Departure Tax from ratepayers in its Original Application and, in turn, Hydro One did not seek to provide any allocation of Future Tax Savings to ratepayers in the Original Application.

On September 28, 2017 (revised October 11 and November 1, 2017), the Board issued the Original Decision. The Board determined that a portion of Future Tax Savings should be allocated to ratepayers. The effect of the Original Decision was to reduce the amount of income tax Hydro One was permitted to recover in its transmission revenue requirement for the period January 1, 2017 to December 31, 2018.

On October 18, 2017 Hydro One filed a Notice of Motion to Review and Vary to the Original Decision in respect of the reduction in income tax recovery due to allocations of Future Tax Savings to ratepayers (EB-2017-0336) ("R&V Proceeding").

On October 27, 2017 Hydro One also filed a Notice of Appeal to the Ontario Divisional Court. On December 19, 2017, the Divisional Court ordered that the appeal would be held in abeyance pending final determinations of the R&V Proceeding.

On August 31, 2018 the Board issued its Decision into the R&V Proceeding. Hydro One's Motion to Review and Vary the Original Decision was granted, in part. The Board found that errors were made in the Original Decision. The original panel was ordered to reconsider the Future Tax Savings determination in light of the findings made in the R&V Proceeding decision.

On October 26, 2018, Hydro One filed a one-year transmission rate application with the Board for the period January 1, 2019 – December 31, 2019 (EB-2018-0130) to escalate 2018 revenue requirement ("2019 Transmission Application"). The method of allocating of Future Tax Savings followed the Original Decision as the appeal process continued and remained outstanding.

On March 7, 2019, the Board issued its Reconsideration Decision EB-2018-0269 into 2017 and 2018 Transmission Revenue Requirement and Charge Determinants regarding Future Tax Savings ("Reconsideration Decision"). The Board found that the method of allocating tax savings in the Original Decision was reasonable.

On March 7, 2019, the Board also issued its Decision into Proceeding EB-2017-0049 ("Distribution Rates Proceeding"). This Decision concerned Hydro One's application for approval of distribution rates revenue requirements for a five-year period effective January 1, 2018 to December 31, 2022. Consistent with EB-2016-0160, Hydro One applied the OEB prescribed allocation percentage to share the Future Tax Savings with ratepayers[2] and the issue was not considered in this proceeding as these matters were pending the outcome of the R&V Proceeding and the appeal to the Divisional Court.

On March 21, 2019, Hydro One filed its transmission rates revenue requirement application for the period Jan 1, 2020 – December 31, 2022 ("2020-2022 Transmission Application"). The Board established Proceeding EB-2019-0082 to hear this application. Hydro One applied the OEB prescribed allocation percentage to share the Future Tax Savings with ratepayers but this was noted as being subject to an appeal to the Divisional Court.

On April 5, 2019, Hydro One formally recommenced its Appeal to the Divisional Court of the Reconsideration and Original Decisions, in accordance with the Court's December 27, 2019 order.

[2] Note, the basis upon which the allocation percentage was applied to calculate Future Tax Savings was amended in the 2018-2022 Distribution Rates proceeding and approved by the OEB in that proceeding. The same approach was taken in the 2020-2022 Transmission Application and was again approved by the OEB.

On April 25, 2019, the Board issued its Decision into EB-2018-0130. The OEB prescribed allocation percentage to share the Future Tax Savings was applied, but this remained subject to the Divisional Court appeal process.[3]

On November 21, 2019, the Ontario Divisional Court heard oral submissions from parties participating in Hydro One's Motion to Appeal the Reconsideration and Original Decisions.

On April 23, 2020 the Board issued Decision EB-2019-0082 into the 2020-2022 Transmission Application. The OEB prescribed allocation percentage to share the Future Tax Savings was applied, but this remained subject to the Divisional Court appeal process.

On July 16, 2020, the Ontario Divisional Court determined that Board decisions having the effect of allocating tax savings amounts to rate payers had been made in error. In the Court's opinion, no part of the benefit of the Future Tax Savings is allocable to ratepayers and should instead be paid to the shareholders in its entirety. The Court ordered that the matter be remitted back to the Board for implementation.

On July 16, 2020, the Board issued its Decision and Order approving transmission rates established for the 2020-2022 period and in accordance with the Board's 2020-2022 Transmission Rates Proceeding Decision ("DRO Decision"). The DRO Decision did not address impacts arising from the Ontario Divisional Court's Decision.

In summary, from the time of the Original Decision to the time of the Ontario Divisional Court's Decision and order, three Hydro One rates revenue requirements applications proceeded before the OEB. In each instance, re-litigation of the Future Tax Savings issues did not occur as these issues remained outstanding and ultimately pending the Ontario Divisional Court's determination.

[3] This was an application to escalate 2018 revenue requirement.

3.0 RECOVERY METHODOLOGY

Two steps are proposed in order to implement the Ontario Divisional Court's Decision:

1. Commencing in 2021, prior period Misallocated Tax Savings Amounts would be recovered through a rate rider (or similar base rate adjustment mechanism) applied to Hydro One's existing approved rates, as discussed further under Section 3.1.

2. Commencing January 1, 2022, the method used to calculate Hydro One's regulatory income tax amounts in its base revenue requirement is to be amended to remove any further Future Tax Savings allocations, as discussed further under Section 3.2.

3.1 CALCULATION OF MISALLOCATED TAX SAVINGS AMOUNTS

Since January 1, 2017, Hydro One applied the OEB prescribed allocation percentage to share the Future Tax Savings with ratepayers. Throughout the appeal process, Hydro One's approach was to report the Future Tax Savings allocated to ratepayers as a single line item deduction to the calculation of regulatory income taxes. In each of the relevant rate orders for: the 2017-2018 Transmission Revenue Requirement (EB-2016-0160), the 2019 Transmission Revenue Requirement (EB-2018-0130), the 2018-2022 Distribution Revenue Requirement (EB-2017-0049) and the 2020-2022 Transmission Revenue Requirement (EB-2019-0082), allocated Future Tax Savings Amounts were reported as follows:

Table 1: Misallocated Tax Savings Amounts Deducted from Regulatory Income Tax

Year	Transmission	Proceeding	Distribution	Proceeding
2017	$31.2M[4]	EB-2016-0160	-[5]	N/A
2018	$35.1M[6]	EB-2016-0160	19.3M[7]	EB-2017-0049
2019	$35.4M[8]	EB-2018-0130	26.3M[9]	EB-2017-0049
2020	$32.8M[10]	EB-2019-0082	24.2M[11]	EB-2017-0049
2021	$30.5M[12]	EB-2019-0082	22.5M[13]	EB-2017-0049
Total for 2017-2021	**$165.0M**		**$92.4M[14]**	

The amounts shown in Table 1 were reported and used in the annual regulatory income tax calculations included in the rate orders for the applicable proceedings, as approved by the OEB.

3.1.1 RECOVERY OF CARRYING COSTS DURING THE APPEAL PERIOD

It is a principle of the law of compensation that – so far as possible by means of a monetary award – just compensation requires that a party be put in the position it would have been in had it not suffered the wrong complained of.[15] Further, it is well-accepted that awarding interest is the fairest and most effective way of compensating for the lost time value of money.[16] In the present circumstances, four years has lapsed between the effective date of the Original Decision and conclusion of the ensuing appeal process. In order to give effect to the Divisional Court's

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[4] EB-2016-0160/EB-2017-0280, Draft Rate Order dated 2017-11-16
[5] No tax savings in the 2017 Distribution rates
[6] EB-2016-0160/EB-2017-0359, Draft Rate Order dated 2017-12-04
[7] Tax savings on the DRO ($28.9M) was pro-rated by 8/12 as rate increases were effective May 1st ($28.9M * 8/12)
[8] Amount is based on 2018 tax savings for 4 months and 2018 tax savings adjusted by inflation (35.1M * 1.0134) for 8 months as 2019 rates were escalated by inflation and given the effective date of May 1, 2019
[9] EB-2017-0049, Draft Rate Order dated 2019-04-05
[10] EB-2019-0082, Draft Rate Order dated 2020-05-28
[11] EB-2017-0049, Draft Rate Order dated 2019-04-05
[12] EB-2019-0082, Draft Rate Order dated 2020-05-28
[13] EB-2017-0049, Draft Rate Order dated 2019-04-05
[14] Minor rounding difference.
[15] See for example *Reeves v. Arsenault* (1998), 1998 CarswellPEI 97 (PEICA); leave to appeal to SCC refused (2000), 2000 CarswellPEI 115 (SCC).
[16] SM Waddams, *The Law of Damages* (looseleaf ed) (Toronto: Thomson Reuters Canada Ltd, 2019 at para 7.40).

Decision, an appropriate carrying cost is proposed to be included in the Misallocated Tax Savings Amounts. The carrying cost rates considered for this purpose are as follows:

Table 2: Carry Cost Rates

	2017	2018	2019	2020	2021	2022
OEB Prescribed Rates (Quarterly rate)[17]						
Transmission	1.10% - 1.50%	1.50% - 2.17%	2.18% - 2.45%	0.57% - 2.18%	0.57%	0.57%
Distribution	1.10% - 1.50%	1.50% - 2.17%	2.18% - 2.45%	0.57% - 2.18%	0.57%	0.57%
Weighted Average Cost of Debt (WACD)						
Transmission	4.47%	4.52%	4.52%	4.31%	4.31%	4.31%
Distribution	4.33%	4.33%	4.33%	4.33%	4.33%	4.33%
Weighted Average Cost of Capital (WACC)						
Transmission	5.48%	5.59%	5.59%	5.31%	5.31%	5.31%
Distribution	5.51%	5.51%	5.51%	5.51%	5.51%	5.51%

The carrying costs, by year up to 2021 under each of the potential rates, are as follows, assuming recovery commencing in 2021:

Table 3: Carrying Costs

($M)	2017	2018	2019	2020	2021[18]	TOTAL
OEB Prescribed Rates						
Transmission	0.2	0.9	1.9	1.6	0.9	**5.4**[19]
Distribution	0.0	0.2	0.7	0.7	0.5	**2.1**
Weighted Average Cost of Debt (WACD)						
Transmission	0.7	2.2	3.8	5.1	6.5	**18.3**
Distribution	0.0	0.4	1.4	2.5	3.5	**7.8**
Weighted Average Cost of Capital (WACC)						
Transmission	0.9	2.7	4.7	6.3	8.0	**22.5**[20]
Distribution	0.0	0.5	1.8	3.2	4.5	**10.0**

[17] 2021 and 2022 assumptions based on most recent OEB prescribed rate.
[18] Amounts included in 2021 assume a full year of interest applied to 2021. This amount will be updated when the effective date is determined by the Board.
[19] Minor rounding difference.
[20] Minor rounding difference.

Hydro One observes that the OEB's prescribed rates of interest are applied in normal course utility operations involving the deferral account variances and construction work in progress matters. Matters involving the payment of monies made under errors of law and impacted by lengthy appeal periods are distinguishable from normal utility operation circumstances. To that end, Hydro One is unaware of similar fact circumstances where this Board has had to implement Court decisions requiring the recovery or payment of amounts determined to be for the benefit or cost of the regulated utility's shareholders.

That said, Hydro One observes that in circumstances where the issue of carrying costs associated with the refund of imprudently incurred costs to customers is in issue, the Alberta Utilities Commission has approved the use of the utility's weighted average cost of capital in calculating carrying costs included in the overall amount returned to ratepayers. The Commission's designated interest rate used for the purpose of calculating deferral account variances was not selected given the different and unique circumstances associated with a customer refund resulting from costs that were determined to be imprudently incurred as compared to normal course variance account operations.[21]

The Alberta Utilities Commission has also addressed circumstances where corrections to electricity regulated tariff calculations were necessary and resulting in part from judicial decisions made by the Alberta Court of Appeal. As part of this appeal and implementation process[22] the Commission considered the question of whether to account for the time value of money during the appeal period and if so, what rate of interest should apply. The Commission found that awarding and charging interest was appropriate to address time value of money concerns and to help remedy gains that unjustly accrued to some parties and the costs that were unjustly imposed on other parties. The Commission determined that a rate of interest

[21] See: Alberta Utilities Commission Decisions 24805-D01-2020 at para. 89-94; adopting Decision 2278-D01-2016.
[22] The appeal process lasted over 10 years

equal to the Bank of Canada rate plus 150 basis points was both an appropriate rate and proxy for the different costs of capital and circumstances involved for each of the affected parties.[23]

In the present circumstances, Hydro One submits that its weighted average cost of debt ("WACD") is an appropriate rate used to calculate all carrying costs and the bill impacts included herein reflect that rate. As a result of the Original Decision, Hydro One incurred a higher level of debt than it otherwise would have. The WACD is the most appropriate carrying charge because the Misallocated Tax Savings Amounts were funds otherwise expected to be received by Hydro One in its normal operations. The cost to finance this shortfall would reasonably attract Hydro One's WACD given that it was over a four year period.

Taking into consideration both the WACD and the Misallocated Tax Savings Amounts, the total recovery amount by year is as follows:

Table 4: Total Recovery Amounts including Misallocated Tax Savings Amounts and Cumulative Carrying Charge Applying WACD ($M)

Year	Value	Transmission (M)	Distribution (M)
2017	Misallocated Tax Savings Amount	$31.2	-
	Carrying Charge (WACD)	$0.7	-
2018	Misallocated Tax Savings Amount	$35.1	$19.3
	Carrying Charge (WACD)	$2.2	$0.4
2019	Misallocated Tax Savings Amount	$35.4	$26.3
	Carrying Charge (WACD)	$3.8	$1.4
2020	Misallocated Tax Savings Amount	$32.8	$24.2
	Carrying Charge (WACD)	$5.1	$2.5
2021	Misallocated Tax Savings Amount	$30.5	$22.5
	Carrying Charge (WACD)	$6.5	$3.5
	Total	**$183.3**	**$100.2**[24]

[23] See Alberta Utilities Commission Decision 790-D04-2016 (September 28, 2016) at para 78-82.
[24] Minor rounding difference.

The Transmission Misallocated Tax Savings Amount, including carrying costs, to be recovered for the 2017-2021 period is $183.3M. The Distribution Misallocated Tax Savings Amount, including carrying costs, to be recovered for the 2018-2021 period is $100.2M.

3.1.2 CARRYING COSTS INCURRED DURING THE RECOVERY PERIOD

Carrying costs will also be incurred during the period in which the Misallocated Tax Savings Amounts remain outstanding within the recovery period. Calculation of this amount will be dependent upon (a) the commencement date of the recovery of the Misallocated Tax Savings Amount; (b) the length of time over which those amounts are recovered; and (c) the effective rate.

3.1.3 START DATE FOR RECOVERY PERIOD

The proposed implementation of Misallocated Tax Savings Amounts recovery is January 1, 2021 or, if that is not possible from a timing perspective, approximately 30 days from the date that the Board issues its decision in this matter. Implementation in 2021 is recommended for the following reasons. First, in its annual update for 2021 distribution rates (EB-2020-0030) Hydro One is proposing a rate decrease which will partially offset the rate impacts associated with the recovery of the Misallocated Tax Savings Amounts. Second, recovery of the Misallocated Tax Savings Amounts in 2021 mitigates rate impacts that may arise in 2022 and 2023. As noted above, in 2022, rates will be impacted by the fact that Hydro One's revenue requirement is proposed to no longer include any allocation of Future Tax Savings in the calculation of regulatory income tax. In 2023, rates will be impacted by new distribution and transmission revenue requirement that will be established through a common joint rate application and rebasing process. This approach mitigates rate impacts to customers by staggering rate increases over time.

Regarding the duration of Misallocated Tax Savings Amounts recovery period, annual rate impacts will be reduced with the imposition of a longer recovery period. However, a longer recovery period attracts greater costs arising from carrying costs and gives rise to greater risks of intergenerational inequities as between ratepayers who received the benefit of the Misallocated Tax Savings Amounts and those from whom amounts will be recovered.

3.1.4 OPTIONS FOR RECOVERING MISALLOCATED TAX SAVINGS AMOUNTS

Hydro One has developed three possible options for the Board's consideration.

3.1.4.1 OPTION 1 – RECOVERY OVER 2021 AND 2022

Under Option 1, Hydro One would recover Misallocated Tax Savings Amounts and carrying costs in the 2021 and 2022 rate periods. This option would commence as early as possible in 2021. A base rate adjustment rider would be used for purposes of Hydro One's distribution rates. For transmission, an adjustment would be made to the calculation of Hydro One's rates revenue requirement included in the 2021 UTR calculation. The year-over-year bill and rate impacts for this option are as follows:

Table 5: Impacts of Recovering Misallocated Tax Savings Amounts over 2021-2022

	Rates Increase		Bill Impact		$ Impact on Typical R1 Residential Customer
	Dx	Tx*	Dx Residential Customer	Tx Customer	
2021	3.3%	5.5%	0.9%	0.4%	$1.87
2022	0.0%	0.0%	0.3%	0.0%	$0.69

* Transmission rate increases are assumed to impact Distribution customer bills in subsequent year given the timing of implementing changes to transmission rates in the setting of distribution Retail Transmission Service Rates (RTSR).

Had the Divisional Court's Decision been reflected in the Original Decision and all subsequent applications approved throughout the Appeal Period, the Misallocated Tax Savings Amounts would have been included in the base revenue requirements and therefore would have been recovered through base rates. Consistent with the OEB approved treatment of the recovery of foregone revenue amounts as an adjustment to base distribution rates in EB-2017-0049, Hydro One expects that R1 and R2 distribution customers will be protected from distribution rate increases associated with the recovery of Misallocated Tax Savings Amounts (i.e. the $1.87 impact shown in Table 5) as a result of the distribution rate protection (DRP) program.

3.1.4.2 OPTION 2 – RECOVERY FROM 2021 TO 2024

Under Option 2, Hydro One would commence recovery of the Misallocated Tax Savings Amounts and carrying costs as soon as possible in 2021 and over a four year period ending December 31, 2024. The following year-over-year bill and rate impacts are associated with Option 2:

Table 6: Impacts of Recovering Misallocated Tax Savings Amounts over 2021-2024

	Rates Impact		Bill Impact		$ Impact on Typical R1 Residential Customer
	Dx	Tx*	Dx Residential Customer	Tx Customer	
2021	1.6%	2.8%	0.5%	0.2%	$0.94
2022	0.0%	0.0%	0.2%	0.0%	$0.35
2023-2024	0.0%	0.0%	0.0%	0.0%	-

* Transmission rate increases are assumed to impact Distribution customer bills in subsequent year, given the timing of implementing changes to transmission rates in the setting of distribution RTSR.

As discussed under Option 1, Hydro One expects that R1 and R2 distribution customers will be protected from distribution rate increases associated with the recovery of Misallocated Tax Savings Amounts (i.e. the $0.94 impact shown in Table 6) as a result of the DRP program.

3.1.4.3 OPTION 3 – RECOVERY FROM 2021 TO 2027

Under Option 3, Hydro One would commence recovery of the Misallocated Tax Savings Amounts and carrying costs as soon as possible in 2021 and over a seven year period ending December 31, 2027. The following year-over-year bill and rate impacts are associated with Option 3:

Table 7: Impacts of Recovering Misallocated Tax Savings Amounts over 2021-2027

	Rates Impact		Bill Impact		$ Impact on Typical R1 Residential Customer
	Dx	Tx*	Dx Residential Customer	Tx Customer	
2021	0.9%	1.6%	0.3%	0.1%	$0.54
2022	0.0%	0.0%	0.1%	0.0%	$0.20
2023-2027	0.0%	0.0%	0.0%	0.0%	-

* Transmission rate increases are assumed to impact Distribution customer bills in subsequent year, given the timing of implementing changes to transmission rates in the setting of distribution RTSR.

As discussed under Option 1, Hydro One expects that R1 and R2 distribution customers will be protected from distribution rate increases associated with the recovery of Misallocated Tax Savings Amounts (i.e. the $0.54 impact shown in Table 7) as a result of the DRP program.

3.2 ADJUSTMENT TO FUTURE REGULATORY INCOME TAX CALCULATIONS

Starting in 2022, Hydro One proposes to amend its method of calculating regulatory income taxes included in its base revenue requirement by removing the following line item deductions attributable to the Future Tax Savings Amounts:

Table 8: Adjustment to 2022 Regulatory Income Taxes

Year	Transmission	Proceeding	Distribution	Proceeding
2022	$28.4M[25]	EB-2019-0082	21.0M[26]	EB-2017-0049

The adjustment to the calculation of regulatory income taxes will be reflected in Hydro One's annual distribution and transmission filings for 2022 revenue requirement and rates ("2022 Annual Updates").

[25] EB-2019-0082, Draft Rate Order dated 2020-05-28
[26] EB-2017-0049, Draft Rate Order dated 2019-04-05

This adjustment is estimated to have the following distribution and transmission rate and customer bill impacts in 2022:

Table 9: Bill Impacts of the 2022 Revenue Requirement Adjustment to Regulatory Income Tax

2022 Rates Increase		Bill Impact*		$ Impact on Typical R1 Residential Customer*
Dx	Tx	Dx Residential Customer	Tx Customer	
1.4%	1.7%	0.5%	0.1%	$1.00

* The 2022 Transmission rate increase will not impact Distribution customer bills until 2023, and as such, the impact amounts shown for a typical R1 residential customer include a bill impact of 0.1% and a dollar impact of $0.22 that will not affect distribution customer bills until 2023.

The amended calculation of annual regulatory income tax amounts would continue to be used in all future rates revenue requirements applications post 2022.

3.3 HYDRO ONE RECOMMENDATION

Based on the foregoing, Hydro One has attempted to balance the Divisional Court's decision that its shareholders must be kept whole with the objective that to the extent practicable, rate impacts to customers are reasonably mitigated. To this end, Hydro One recommends as follows:

- That future revenue requirement be adjusted as part of Hydro One's 2022 annual updates for transmission and distribution to remove the allocation of Future Tax Savings to ratepayers

- In respect of the recovery of the Misallocated Tax Savings Amounts:
    - That recovery commence as soon as possible in 2021
    - That the WACD be applied to the annual portions of the Misallocated Tax Savings commencing from January 1, 2017 and continuing for the duration of the recovery period determined by the Board

- Hydro One takes no position in respect of the recovery period provided the WACD is applied as requested. Hydro One notes that Option 3, recovery from 2021 to 2027, is the best option for mitigating rate impacts to customers

3.4 IMPLEMENTATION OF RECOVERY OF MISALLOCATED TAX SAVINGS AMOUNTS

Transmission

Misallocated Tax Savings Amounts and carrying costs attributable to Transmission are proposed to be included as an adjustment in the Hydro One rates revenue requirement collected via Ontario Uniform Transmission Rates (UTRs). Under Option 3, the total Misallocated Tax Savings Amounts and carrying costs attributable to Transmission of $183.3M would be divided by seven[27] and included in the Hydro One rates revenue requirement used to set the UTRs for 2021 and through 2027. The resetting of UTRs will impact all customers connected to the transmission system (i.e. LDCs and large industrial customers) in the year in which the UTRs are reset.

Distribution

Misallocated Tax Savings Amounts and carrying costs attributable to Distribution were part of the total annual rates revenue requirement and, per the OEB's approved Cost Allocation Model, were allocated across rate classes in proportion to each rate class' allocated share of Net Fixed Assets ("NFA"). As such, and consistent with the OEB approved approach in EB-2017-0049 for disposition of prior changes in tax amounts, Hydro One proposes that the total Misallocated Tax Savings Amount of $100.2M should be split among distribution rates classes in proportion to the NFA amounts allocated to each rate class as per Hydro One's most current 2018 Cost Allocation Model approved in EB-2017-0049.

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[27] Option 3 adopts a recovery period of seven years. If either Option 1 or Option 2 were adopted, the denominator value would be adjusted to reflect the shorter durations of those recovery periods.

Under Option 3, Hydro One proposes that the base rate adjustment riders would be calculated assuming a recovery of the amount allocated to each rate class over the balance of 2021 and the 2022 to 2027 period available for disposition. The approved fixed and volumetric charge determinants for those years would then be used to recalculate the base rate adjustment riders applicable in each year.

4.0 REQUESTED RELIEF

Based on the foregoing, Hydro One hereby requests the following relief:

1. Declaration that the recovery of Misallocated Tax Savings Amounts is to be treated as an adjustment to base distribution rates;

2. Amendments to rate orders for the 2017-2018 Transmission Revenue Requirement (EB-2016-0160), the 2019 Transmission Revenue Requirement (EB-2018-0130), the 2018-2022 Distribution Revenue Requirement (EB-2017-0049) and the 2020-2022 Transmission Revenue Requirement (EB-2019-0082) to give effect to the following:
    a. Recovery of Misallocated Tax Savings Amounts commencing January 1 2021 or as determined by this Board and over a recovery period to be determined by the Board;
    b. Revisions to the method of calculating regulatory income taxes beginning in 2022 to remove the allocation of tax savings from future calculations of regulatory income tax;

3. Direction to Hydro One to reflect such revisions in its 2022 annual update filings for distribution and transmission;

4. Approval of a recovery period for the Misallocated Tax Savings Amount, and the applicable carrying charge, from 2021 to 2027 or over such other period as the Board may determine;

5. Approval of the WACD as the appropriate carrying charge, or such other carrying charge to be determined by the Board, to be applied to the annual portions of the Misallocated Tax Savings commencing from January 1, 2017 and continuing for the duration of the recovery period determined by the Board;

6. Approval of Transmission Misallocated Tax Savings Amounts to be included in Hydro One's rates revenue requirement to be included in the setting of 2021 through 2027 UTRs or over such other period as the Board may determine;

7. Approval of a Distribution base rate adjustment rate rider that will:
   a. Take effect on January 1, 2021, or within 30 days of receiving a decision in this matter, or such other date as the Board deems appropriate;
   b. Be applied to Hydro One's distribution rate classes using the same cost allocator as was used to allocate the cost of taxes in the cost allocation model filed as part of Hydro One's last distribution application (EB-2017-0049);
   c. Provide for the full recovery of the Distribution Misallocated Tax Savings Amount over a duration to be determined by the Board; and
   d. Provide for the recovery of the carrying charge as determined by the Board and described herein;

8. Such other relief as Hydro One requests or the Board deems necessary.

Hydro One is amenable to discussing this matter further with OEB staff and intervenors to determine whether a common position may be found in respect of: (i) the recovery period for the Misallocated Tax Savings Amounts; (ii) the appropriate carry charge; and (iii) the effective dates for the recovery of the Misallocated Tax Savings Amounts and the adjustment to future revenue requirement. Hydro One proposes such discussion take place on November 9 or 10, 2020 or as otherwise is reasonably proposed by the Board and parties.

Hydro One requests that a copy of all documents filed with the Board by each party to this application be served on the Applicant and the Applicant's counsel as follows:

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DATED at Toronto, Ontario, this 28 day of October, 2020.

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Frank D’Andrea