



**North Bay Hydro Distribution Limited  
Application for electricity distribution rates and other  
charges beginning May 1, 2021**

**DECISION ON ISSUES LIST**

**April 19, 2021**

North Bay Hydro Distribution Limited (North Bay Hydro) filed a cost of service application with the Ontario Energy Board (OEB) on January 5, 2021 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), seeking approval for changes to the rates that North Bay Hydro charges for electricity distribution, beginning May 1, 2021.

Procedural Order No. 1, dated February 18, 2021, made provision for, among other matters, the filing of a proposed issues list. On April 9, 2021, OEB staff filed a letter informing the OEB that parties had not been able to reach a full agreement on a proposed issues list. The proposed issues list that OEB staff included in its letter noted that specifically Issue 5.3 – “Is the Application fully consistent with the Decision of the OEB in EB-2019-0015?” is in contention.

The EB-2019-0015 proceeding was a mergers, acquisitions, amalgamations and divestitures (MAADs) application made before the OEB requesting approval for North Bay Acquisition Inc. (North Bay Acquisition) to acquire and amalgamate with Espanola Regional Hydro Holdings Corporation and Espanola Regional Hydro Distribution Corporation (Espanola Hydro). The OEB approved Phase 1 of a two-phase transaction in which the acquired Espanola Hydro and North Bay Hydro would be separate companies owned by North Bay Hydro Holdings Ltd. (North Bay Hydro Holdings). The approvals for Phase 2 will be requested in a separate application filed later – approximately in 2022 – at which time North Bay Hydro would seek approval to amalgamate with Espanola Hydro.

OEB staff's letter noted that Issue 5.3 was proposed by the School Energy Coalition (SEC) and supported by the Vulnerable Energy Consumers Coalition (VECC) and the Consumers Council of Canada (CCC). The letter noted that North Bay Hydro objected to the inclusion of the issue while the other intervenors to this proceeding, Hydro One Networks Inc. and Donald D. Rennick, took no position.

The OEB subsequently issued Procedural Order No. 2, dated April 12, 2021, which made provisions for parties to file written submissions on the proposed issues list by April 15, 2021. The OEB received submissions from North Bay Hydro and SEC on April 15, 2021, from VECC on April 16, 2021 and from CCC on April 19, 2021. No submission was received from OEB staff, Hydro One Networks Inc. or Donald D. Rennick.

### **Submissions by Parties**

SEC submitted that Issue 5.3 should be included. SEC acknowledged that the MAADs Decision found that the plan for Espanola Hydro and North Bay Hydro to file separate 2021 cost of service applications was reasonable. However, SEC submitted that the MAADs Decision also recognized that common ownership of the two utilities could give rise to economies of scope and scale, and those issues could be considered in either utility's cost of service application.

SEC submitted that North Bay Hydro's proposal to remove Issue 5.3 would exclude any consideration of the impacts of the acquisition and as a result would require the OEB and all parties to consider North Bay Hydro's costs as if it were not under common ownership with Espanola Hydro. SEC argued that these would be imaginary, fictional costs and would not be an appropriate basis for setting rates. By way of example, SEC pointed out that Espanola Hydro and North Bay Hydro share the same CEO, and submitted that North Bay Hydro's proposal would appear to say that all of the salary of the CEO should be considered a cost to both Espanola Hydro and North Bay Hydro. SEC submitted that its intention is not to relitigate any aspects of the MAADs Decision, but to consider this rate application based on full evidence in order to determine just and reasonable rates.

VECC and CCC supported SEC's arguments and submitted that Issue 5.3 should be included. VECC pointed to sections of the MAADs Decision that discussed North Bay Hydro's financial viability and capacity for additional debt and submitted that North Bay Hydro's ability to remain as guarantor to Espanola Hydro's debt should be allowed to be examined in this proceeding in order to be compliant with the MAADs Decision. VECC further noted the MAADs Decision's discussion of the "no harm" test and submitted that parties should be able to test whether there has been any "harm" to North Bay Hydro's customers as a result of the Espanola Hydro acquisition.

In addition, VECC also submitted that any disallowance of costs in North Bay Hydro's proposed rates in this proceeding may also need to consider the impact of that disallowance on the ongoing ability of North Bay Hydro to act as a guarantor of Espanola Hydro. As a general matter, VECC submitted that the MAADs Decision viewed the issues arising from that decision as germane to the current rate application,

and it is unclear what harm would arise to North Bay Hydro should Issue 5.3 be included.

North Bay Hydro objected to the inclusion of Issue 5.3. In its submission, North Bay Hydro outlined three main reasons for its objection:

1. North Bay Hydro was not a party and is not implicated in the MAADs Decision.

The applicant in EB-2019-0015 was North Bay Acquisition, now Espanola Hydro, and not North Bay Hydro. North Bay Hydro submitted that the OEB's orders in the MAADs Decision made reference only to North Bay Acquisition and are therefore not applicable to North Bay Hydro. North Bay Hydro noted that there is one item from the MAADs Decision ordering North Bay Acquisition to conduct an analysis on accounting policy differences between Espanola Hydro and North Bay Hydro, but that is already being addressed as an issue in Espanola Hydro's cost of service application and is therefore not relevant to this proceeding.

2. North Bay Hydro and Espanola Hydro are two separate legal entities and have filed separate and distinct cost of service applications, which should be considered independently.

North Bay Hydro referred to sections in the MAADs Decision where the OEB found that it was reasonable for Espanola Hydro and North Bay Hydro to file separate 2021 cost of service applications. With regard to what costs should be considered in the 2021 cost of service applications, the OEB panel for the MAADs Decision noted that it could not bind future OEB panels that would hear those cost of service applications. On this basis, North Bay Hydro submitted that there is no reason to include Issue 5.3, which considers whether North Bay Hydro's current rate application is consistent with the MAADs Decision. North Bay Hydro further noted that any parties can explore evidence of actual costs or efficiencies under the balance of the proposed issues list and therefore Issue 5.3 is not needed.

3. The OEB has previously ruled that potential cost savings arising from a proposed amalgamation in the future are out of scope of the cost of service proceeding.

North Bay Hydro stated that some parties in support of Issue 5.3 may take the position that a potential future amalgamation of North Bay Hydro with Espanola Hydro should be within the scope of this proceeding. North Bay Hydro submitted that this position ignores prior decisions of the OEB that found such matters out of scope and provided a few examples of past OEB decisions.

## Findings

The OEB finds that a revised Issue 5.3 will be included on the Issues List as follows:

Issue 5.3 “Have the outcomes of the Phase 1 transaction approved by the OEB in the EB-2019-0015 proceeding been appropriately addressed?”

North Bay Hydro noted that any parties can explore evidence of actual costs or efficiencies under the balance of the proposed issues list and therefore Issue 5.3 is not needed. However, the OEB agrees that the Phase 1 MAADs Decision recognized that common ownership of the two utilities could give rise to economies of scope and scale, and those issues could be considered in either utility’s cost of service application.

The OEB has approved Phase 1 of the transaction. An application has not yet been filed for Phase 2. The OEB has therefore amended the issue to be clear that only the outcomes from this Phase 1 transaction are in scope of this proceeding.

The OEB cautions all parties that the intention of this proceeding is not to relitigate any aspects of the MAADs Decision, but to consider this rate application based on full evidence in order to determine just and reasonable rates.

### THE ONTARIO ENERGY BOARD ORDERS THAT:

1. The approved issues list is attached to this Decision as Schedule A.

Parties are responsible for ensuring that any documents they file with the OEB, such as applicant and intervenor evidence, interrogatories and responses to interrogatories or any other type of document, do not include personal information (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB’s *Rules of Practice and Procedure*.

All materials filed with the OEB must quote the file number, **EB-2020-0043**, and be submitted in a searchable/unrestricted PDF format with a digital signature through the OEB’s web portal at <https://pes.ontarioenergyboard.ca/PivotalUX>. Filings must clearly state the sender’s name, postal address, telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at [www.oeb.ca/industry](http://www.oeb.ca/industry). We encourage the use of RESS; however, parties who have not yet [set up an account](#), may email their documents to [registrar@oeb.ca](mailto:registrar@oeb.ca).

All communications should be directed to the attention of the Registrar at the address below and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Jerry Wang at [Jerry.Wang@oeb.ca](mailto:Jerry.Wang@oeb.ca) and OEB Counsel, Ljuba Djurdjevic at [Ljuba.Djurdjevic@oeb.ca](mailto:Ljuba.Djurdjevic@oeb.ca).

Email: [registrar@oeb.ca](mailto:registrar@oeb.ca)

Tel: 1-888-632-2727 (Toll free)

**DATED** at Toronto, **April 19, 2021**

**ONTARIO ENERGY BOARD**

*Original Signed By*

Christine E. Long  
Registrar

**SCHEDULE A**  
**NORTH BAY HYDRO DISTRIBUTION LIMITED**  
**EB-2020-0043**  
**APPROVED ISSUES LIST**  
**APRIL 19, 2021**

**FINAL ISSUES LIST**  
**EB-2020-0043**  
**North Bay Hydro Distribution Limited (North Bay Hydro)**

**1.0 PLANNING**

**1.1 Capital**

Is the level of planned capital expenditures appropriate and is the rationale for planning and pacing 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
- investment in non-wire alternatives, including distributed energy resources, where appropriate
- trade-offs with OM&A spending
- government-mandated obligations
- the objectives of North Bay Hydro and its customers
- the distribution system plan
- the business plan

**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
- the objectives of North Bay Hydro and its customers
- the distribution system plan
- the business plan

## **2.0 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?

## **3.0 LOAD FORECAST, COST ALLOCATION AND RATE DESIGN**

- 3.1** Are the proposed load and customer forecast, loss factors, conservation and demand management adjustments and resulting billing determinants appropriate, and, to the extent applicable, are they an appropriate reflection of the energy and demand requirements of North Bay Hydro's customers?
- 3.2** Are the proposed cost allocation methodology, allocations, and revenue-to-cost ratios, appropriate?
- 3.3** Are North Bay Hydro's proposals, including the proposed fixed/variable splits, for rate design appropriate?
- 3.4** Are the proposed Retail Transmission Service Rates and Low Voltage Service Rates appropriate?
- 3.5** Are the Specific Service Charges, Retail Service Charges, and Pole Attachment Charge appropriate?
- 3.6** Is North Bay Hydro's request to amend the name and description of its GS 3,000 to 4,999 kW customer class to GS> 3,000 kW appropriate?

## **4.0 ACCOUNTING**

- 4.1** Have all impacts of any changes in accounting standards, policies, estimates and adjustments been properly identified and recorded, and is the rate-making treatment of each of these impacts appropriate?
- 4.2** Are North Bay Hydro's proposals for deferral and variance accounts, including the balances in the existing accounts and their disposition, requests for new accounts, requests for discontinuation of accounts, and the continuation of existing accounts, appropriate?

## **5.0 OTHER**

- 5.1** Is the proposed effective date (i.e. May 1, 2021) for 2021 rates appropriate?



**5.2** Has North Bay Hydro responded appropriately to the requirements and agreements set out in its previous cost of service application EB-2014-0099, namely:

- exploring the possibility of better aligning North Bay Hydro's incentive pay structure with the metrics and outcomes described in EB-2014-0099
- completing a comprehensive review of all North Bay Hydro's processes and systems underlying its working capital requirements

**5.3** Have the outcomes of the Phase 1 transaction approved by the OEB in the EB-2019-0015 proceeding been appropriately addressed?