Ontario Energy Board | Commission de l'énergie de l'Ontario

BY EMAIL

February 25, 2022

Ms. Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
Registrar@oeb.ca

Dear Ms. Marconi:

**Re: Ontario Energy Board (OEB) Staff Submission**
**North Bay Hydro Limited and**
**Espanola Regional Hydro Distribution Corporation**
**Phase 2 MAADs Application**
**OEB File Number: EB-2021-0312**

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Please find attached OEB staff's submission in the above referenced proceeding, pursuant to Procedural Order No. 1.

Yours truly,

Keith C. Ritchie

Digitally signed by Keith C. Ritchie
Date: 2022.02.25 14:13:05 -05'00'

Keith C. Ritchie
Senior Advisor – Major Rate Applications and Consolidations

Encl.

cc: All parties in EB-2021-0312

# ONTARIO ENERGY BOARD

## OEB Staff Submission

**Application for North Bay Hydro Distribution Limited and Espanola Regional Hydro Distribution Corporation to amalgamate and continue operations as a single distribution company**

**EB-2021-0312**

**February 25, 2022**

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# Background

North Bay Hydro Distribution Limited (North Bay Hydro) and Espanola Regional Hydro Distribution Corporation (Espanola Hydro) (collectively, the Applicants), applied to the Ontario Energy Board (OEB) on November 24, 2021, under section 86(1)(c) of the *Ontario Energy Board Act*, 1998, S.O. 1998, c. 15, (Schedule B), (OEB Act) for approval to amalgamate and continue operations as a new single local electricity distribution company called New North Bay Hydro Distribution Limited (New NBH).

This is a Phase 2 application for the merger of North Bay Hydro and Espanola Hydro, following a Phase 1 application in 2019 whereby North Bay Hydro Holdings Ltd. (NBH Holdings), the parent company of North Bay Hydro, applied to acquire all of the outstanding shares in Espanola Hydro.[1] The OEB approved the acquisition.

Following the OEB's decision[2] approving the share purchase of Espanola Hydro in the Phase 1 application, the transaction was closed on October 1, 2019. However, North Bay Hydro and Espanola Hydro remained as separate but affiliated electricity distribution companies, each independently licensed and rate-regulated by the OEB.

The Phase 1 application dealt with the purchase price, including the purchase price premium (i.e., mark-up above the net book value of the acquired assets less liabilities), paid for the acquiring control of Espanola Hydro. Other details tied to the change in control of Espanola Hydro were the subject of the Phase 1 application. However, the Phase 1 application did not deal with the merger of North Bay Hydro and Espanola Hydro, nor the service agreement for another electricity distributor, PUC Distribution Inc. (PUC Distribution), which is providing services to Espanola Hydro until February 28, 2022.

Each of North Bay Hydro and Espanola Hydro rebased their distribution rates in 2021 through cost of service applications approved by the OEB.[3]

In Procedural Order No.1 (PO 1), the OEB noted that matters decided in Phase 1 and cost of service applications would not be considered again in this proceeding. The OEB reiterated this in its Decision on the Motion in this proceeding.[4]

[1] EB-2019-0015
[2] EB-2019-0015, Decision and Order, August 22, 2019.
[3] EB-2020-0020 for Espanola Hydro and EB-2020-0043 for North Bay Hydro.
[4] EB-2021-0312, Decision on Motion, issued February 3, 2022

## Application Summary

The Applicants are requesting the following OEB approvals:

- Leave for North Bay Hydro and Espanola Hydro to amalgamate and continue as a new corporation (New NBH) pursuant to section 86(1) (c) of the OEB Act;
- Leave to transfer the current and any future rate orders and rate riders of Espanola Hydro to New NBH pursuant to section 18 of the OEB Act;
- Amendment of North Bay Hydro's distribution license to include Espanola Hydro's service territory pursuant to section 74 of the OEB Act;
- Cancellation of Espanola Hydro's distribution license pursuant to section 77(5) of the OEB Act; and
- Continued tracking of costs by New NBH to existing deferral and variance accounts of North Bay Hydro and Espanola Hydro

The OEB issued PO 1 on January 28, 2022. PO 1 established that the application would be considered by way of a written hearing and established a schedule for interrogatories and responses, followed by written submissions and reply submissions. Schedule B to PO 1 also provided the OEB-approved Issues List for consideration of the application.

The School Energy Coalition (SEC) and Mr. Donald Rennick applied for and were granted intervenor status.

Mr. Rennick filed a Motion on January 31, 2022, seeking production of certain information from North Bay Hydro and an extension to the schedule, including delaying the filing of interrogatories until February 28, 2022. On February 2, 2022, North Bay Hydro filed correspondence in response to the Motion and Mr. Rennick filed further correspondence on the same day. On February 3, 2022, the OEB issued a Decision on Motion dismissing the motion without a hearing and found that it was not necessary to address the arguments in the correspondence filed on February 2, 2022.[5]

In accordance with the schedule established in PO 1, interrogatories were posed by intervenors and OEB staff on February 7, 2022, and the Applicants filed their responses to interrogatories on February 15, 2022.

[5] Decision on Motion, February 3, 2022

## OEB Staff Submission

OEB staff makes the following submissions on the issues set out in the Issues List.

### 1. Does the proposed merger satisfy the No Harm Test as documented in the Handbook to Electricity Distributor and Transmitter Consolidations (MAADs Handbook)?

The OEB applies the "no harm" test when assessing applications that seek approval for regulated entities to consolidate. As described in the *Handbook to Electricity Distributor and Transmitter Consolidations (*MAADs Handbook),[6] the "no harm" test considers whether the proposed transaction will have an adverse effect on the attainment of the OEB's statutory objectives.[7]

OEB staff has reviewed the evidence and submits that the proposed transaction satisfies the "no harm test". Further details are provided below.

**Impact on Price, Economic Efficiency and Cost Effectiveness**

The Applicants state that the incremental costs associated with the Phase 2 merger are estimated at $300K, with $215K being for transition costs and $85K for transaction costs.[8] The Applicants also stated that these incremental costs will not be recovered from ratepayers.[9] OEB staff submits that this is consistent with OEB policy and that ratepayers thus face no financial harm from the proposed Phase 2 transaction.[10]

The Applicants state that, as a result of the merger, there will be synergies obtained by eliminating duplicate functions currently needed to be done for each of Espanola Hydro and North Bay Hydro. In the Application, the Applicants state:

> Over the long-term horizon, this acquisition is anticipated to generate sustainable administrative cost savings as a result of centralizing back-office functions including management, billing, customer service, finance and regulatory functions.[11]

Further elaboration was provided in response to some interrogatories.[12]

[6] OEB *Handbook to Electricity Distributor and Transmitter Consolidations* (MAADs Handbook), issued January 19, 2016, pp. 3-4
[7] *Ontario Energy Board Act, 1998*, Section 1
[8] Application, pp. 30, 36-37
[9] Application, p. 16
[10] MAADs Handbook, pp. 8-9 specifies that costs associated with a merger or acquisition are not generally recoverable from ratepayers, and that synergies and savings realized during the deferred rebasing period should allow for recovery of these incremental costs.
[11] Application, p. 36
[12] Interrogatories, 1-Staff-2, SEC-4, SEC-11

The Applicants state that ratepayers in Espanola Hydro's rate zone will receive more of the operational benefits resulting from the merger initially. These benefits are in the form of improved service performance, such as an extension of North Bay Hydro's SCADA system, and the elimination of back-office costs on a stand-alone basis.[13]

Forecasted synergies and savings are expected to amount to $657K in 2023 and increase to $686K by 2026.[14] The Applicants state that 30% of these synergies would be a direct result of the proposed merger.[15] These are primarily in terms of operating, maintenance and administration (OM&A) costs, although the Applicants note that savings in capital costs are expected in the longer term.[16] Cost savings initially accrue to New NBH and its shareholders and help offset the $300K transaction costs discussed earlier. However, OEB staff notes that ratepayers in both rate zones will benefit from the OM&A savings at the time of the first rebasing application for New NBH, forecasted to be for rates effective May 1, 2027.

## Adequacy, Reliability and Quality of Service

The Applicants note that, due to the distance between the North Bay Hydro and Espanola Hydro service territories (about 175 km), they propose that the operations centre in Espanola will remain functional to provide local service to customers in Espanola, Webbwood and Massey (Espanola Hydro's licensed service territory).[17]

The Applicants note similarities of the nature of the service territories in terms of weather and terrain, and also similar mixes of the customers in the two areas, which should ease the task of operating as one merged utility.

The Applicants note that the operations centre in Espanola will be maintained and staffed, and with at least one manager, so as to maintain the necessary services to customers in the Espanola Hydro service territory.[18]

North Bay Hydro plans to extend its SCADA system to the Espanola Hydro service territory. This should result in improved reliability to the customers there, as monitoring of the system will allow for faster detection and response to system problems when they occur.[19]

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[13] Application, p. 35
[14] *Ibid.*, p. 27/Table 6-1. See also 1-Staff-2, SEC-2 and Appendix "C" filed with the interrogatory responses.
[15] Application, p. 16
[16] Interrogatories, SEC-8
[17] Application, pp. 21, 30. See also Appendix C (page 53 of the Application) for the map showing the distance between North Bay Hydro's and Espanola Hydro's service territories.
[18] Interrogatories, SEC-6 c), SEC-7,
[19] Interrogatories, 1-Staff-1 b), SEC-6

## Impact on Financial Viability

The Applicants state that North Bay Hydro and Espanola Hydro are both subsidiary corporations of the same holding company (NBH Holding), the amalgamation is simpler under the Ontario Business Corporations Act (OBCA).[20] Further, as a result of the existing common ownership, there is no change in control that would result from the proposed merger. As a result of the common ownership of the merging utilities, there is no purchase price (or associated premium) involved in the Phase 2 transaction.

In summary and based on the above consideration of various aspects of the proposed merger, OEB staff submits that the "no harm test" is satisfied by the evidence in the Application and provided in responses to interrogatories.

[20] Application, p. 25

## 2. Have the Applicants addressed all directions and orders from previous OEB decisions that are directly relevant to this application, namely the Phase 1 application (EB-2019-0015) and Espanola Hydro's and North Bay Hydro's 2021 Cost of Service rebasing applications (EB-2020-0020 and EB-2020-0043)?

In section 1.2 of the Application, the Applicants address those items from the 2019 Phase 1 MAADs decision and the 2021 rebasing applications of each of Espanola Hydro and North Bay Hydro which are summarized as follows:

1. As a condition of the Settlement Agreement, in Espanola Hydro's rebasing application for 2021 rates Espanola Hydro must, within two years of the final rate order in that rate application, either file an application for a merger with North Bay Hydro or file a new cost of service application to rebase Espanola Hydro's rates. In the event that neither condition was met, Espanola Hydro would forego a formulaic Price Cap IR rate adjustment for 2022.
2. The Phase 1 MAADs decision, ordered Espanola Hydro and North Bay Hydro to conduct an analysis of accounting policy differences between the two utilities and bring forward a proposal in the next cost of service application.
3. In the Phase 1 MAADs proceeding and in the North Bay Hydro rate application to rebase rates for 2021, the OEB deferred consideration of the Earnings Sharing Mechanism (ESM) set to commence at the beginning of the sixth year after completion of the Phase 1 MAADs transaction.[21]

This Application satisfies item 1 and the accounting policy matter, item 2, was addressed in Espanola Hydro's 2021 cost of service application.[22]

The only outstanding issue that has been deferred from previous applications is item 3 - the ESM. In the Phase 1 application, the OEB deferred consideration of the ESM to a subsequent rate application.[23] The matter of the ESM was again considered in North Bay Hydro's rate application to rebase its 2021 electricity distribution rates. However, the OEB's decision in the 2021 cost of service rate application further deferred consideration of the ESM to this, then anticipated, application.[24]

The Applicants have made a proposal for the ESM in this Application. OEB staff submissions on the ESM proposal are set out under Issue 4 in this submission.

In summary, OEB staff submits that the Applicants have addressed, either in prior applications or in this Application, all directions and orders from previous OEB decisions that are pertinent to this Application.

[21] Application, pp. 8-9
[22] EB-2020-0020
[23] EB-2019-0015, Decision and Order
[24] EB-2020-0043, Decision and Order, September 9, 2021, p. 34

### 3. Is the proposal for the Service Agreement between North Bay Hydro and Espanola Hydro, upon termination of Espanola Hydro's Service Agreement with PUC Distribution Inc. on February 28, 2022, appropriate and meet the requirements of applicable OEB policies, including the Affiliate Relationships Code?

Prior to the Phase 1 application, Espanola Hydro had entered into a service agreement with PUC Distribution for services provided by PUC Distribution for the operation of Espanola Hydro. The service agreement between Espanola Hydro and PUC Distribution is effective until February 28, 2022, and will not be extended or renewed.

Between March 1, 2022, and the date when the merger between North Bay Hydro and Espanola Hydro is executed (and assuming OEB approval of this Application), North Bay Hydro proposes to execute a service agreement with Espanola Hydro that is:

- equivalent to the service agreement between Espanola Hydro and PUC Distribution; and
- *Affiliate Relationships Code for Distributors and Transmitters* (ARC) compliant.[25]

In response to an interrogatory, the Applicants provided additional detail on the proposed service agreement, the differences from the service agreement with PUC Distribution and the changes necessary for compliance with the ARC.[26] A copy of the current Service Agreement with PUC Distribution is filed as an appendix to the interrogatory responses, as is the proposed service agreement between Espanola Hydro and North Bay Hydro, effective January 1, 2022.[27]

OEB staff submits that the proposed service agreement between Espanola Hydro and North Bay Hydro, for the period until the entities merge, is appropriate and compliant with OEB policies.

[25] Application, pp. 13, 15
[26] Interrogatory, 3-Staff-3
[27] Appendix "A" for the PUC Distribution Inc. Service Agreement, and Appendix "B" for the 2022 Service Agreement between Espanola Hydro and North Bay Hydro.

## 4. Is the proposal for the Earnings Sharing Mechanism (ESM) consistent with OEB policies, such as the MAADs Handbook?

The Applicants propose the following for the ESM:[28]

- The ESM would commence on October 1, 2025, and continue until the effective date of rebased distribution rates for New NBH as a result of a cost of service application proposed for 2027
- The ESM would be asymmetric, with over earnings 300 basis points above the allowed ROE to be shared 50:50 between New NBH's ratepayers and shareholders.

The Applicants filed a draft Accounting Order for the ESM entries in response to interrogatories.[29] OEB staff address the proposed draft Accounting Order for the ESM in this section.

OEB staff notes that the ESM proposal involves stub periods during which the ESM will be in effect.

OEB staff submits that, and with the Applicants' concurrence on the start date for the ESM (discussed below), the general terms of the proposal are consistent with the policies in the MAADs Handbook as follows:[30]

- The ESM will commence on October 1, 2024, and continue until the effective date of rebased distribution rates for New NBH resulting from a cost of service application proposed for 2027
- The ESM would be asymmetric, with over earnings 300 basis points above the allowed ROE of 8.34% (discussed below) to be shared 50:50 between New NBH's ratepayers and shareholders.

As noted earlier, both North Bay Hydro and Espanola Hydro rebased their distribution rates in 2021. As a result, both North Bay Hydro and Espanola Hydro were approved allowed ROEs of 8.34%.[31] As a result, the allowed ROE for the amalgamated company, New NBH, will be the same for both rate zones after the merger, if approved. This should simplify the calculation of the approved ROE on a consolidated basis, and hence of any over-earning, post-merger until rebasing.

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[28] Application, p. 40
[29] Appendix "F" to the Interrogatory Responses, February 15, 2022
[30] Handbook to Electricity Distributor and Transmitter Consolidations, pp. 16-17
[31] For Espanola Hydro, see EB-2020-0020, Decision and Rate Order, June 10, 2021, Schedule B (Settlement Proposal), pp. 22-23. For North Bay Hydro, see EB-2020-0043, Decision and Order and Procedural Order No. 3, May 31, 2021, Schedule A (Partial Settlement Agreement), page 20/Table 2.2E.

## Start Date for ESM

In an interrogatory, OEB staff tested whether the proposed ESM start date of October 1, 2025, is compliant with the OEB's policy in the MAADs Handbook.[32] The Phase 1 application approved by the OEB in 2019, was completed on October 1, 2019.[33] As shown in a table in an OEB staff interrogatory, the commencement of the sixth year following the completion of the Phase 1 MAADs should be October 1, 2024.

In response to OEB staff's interrogatory, the Applicants confirmed that the start date for the ESM should be October 1, 2024, and this revised date is shown in the draft Accounting Order filed as part of interrogatory responses.[34]

## Stub Periods and ESM Review and Disposition

With the start of the ESM on October 1, 2024, there will be a stub period (i.e., October 1 to December 31, 2024) for recording any over earnings during the ESM period. In response to the OEB staff interrogatory, the Applicants proposed a monthly proration (i.e., 3 months out of 12 for 2024), for the purposes of calculating any over earnings tracked in the ESM, as the ROE on a regulated basis is typically calculated on a full calendar year.[35] OEB staff submits that the Applicants' proposal is reasonable.

The Applicants currently both operate on a May 1 to April 30 rate year and propose that New NBH will also continue on the May 1 to April 30 rate year.[36] This means there will also be a stub period in the year that New NBH rebases. This ending stub period is proposed to be January 1 to April 30, 2027. OEB staff submits that the same proration methodology should be used for calculating any over earnings during this ending stub period.

OEB staff notes that, in response to an interrogatory, the Applicants propose disposition of any ESM balance as part of the first rebasing application of New NBH following the deferred rebasing period.[37] This would be the rebasing application for rates effective May 1, 2027. However, in the draft accounting order for the ESM filed with the interrogatory responses, the Applicants state:

> Disposition of material balances in this account are subject to review through the annual IRM process, and are expected to be achieved through a rate rider. The deferral account is expected to cease when New NBHDL puts forward its next Cost of Service Application.[38]

[32] Interrogatory, 4-Staff-4
[33] Application, p. 40
[34] Interrogatory,4-Staff-4
[35] Interrogatory,4-Staff-5 c)
[36] Interrogatory,5-Staff-6
[37] Interrogatory,4-Staff-5 a)
[38] Appendix "F" to the interrogatory responses, February 15, 2022

OEB staff submits that the Applicants should clarify when they propose to review and dispose of the ESM balances.

OEB staff makes the following submissions on the timing for review and disposition of any ESM balances. A rebasing application for New NBH, and in particular, one that also proposes rate harmonization between the Espanola Hydro and North Bay Hydro rate zones, would have to be filed in the middle of 2026. The ESM will be in effect from October 1, 2024, until April 30, 2027.

Regarding the timing of the disposition of the ESM account, OEB staff notes that, although the Applicants proposed annual disposition of the ESM account in the draft accounting order, the 2024 stub period (October 1 to December 31) balance, if any, would be disposed of in the 2026 IRM rate application, the 2025 full-year balance would be disposed in the 2027 rebasing application and the 2026 full-year and 2027 stub-period balances would be disposed of in the 2028 and 2029 IRM applications, respectively. OEB staff notes that there have been previous OEB decisions that approved disposition of the ESM at the end of the deferred rebasing period.[39] OEB staff would not object if the results of the ESM were filed annually, with the detailed review and disposition of the ESM being considered in the cost of service rate proceeding at the end of the deferred rebasing period.

## Draft Accounting Order

In the draft accounting order, the Applicants state that the balances of the ESM are subject to review through the annual IRM process.[40]

The Applicants proposed two sample accounting entries, with one sample entry to record any realized over-earning in the proposed ESM account in any given year, and with the other sample entry to record the carrying charges on the principal balance of the ESM account, using the OEB's prescribed interest rates.

OEB staff does not believe that reference to materiality is necessary or appropriate. The MAADs Handbook states that "the ESM is designed to protect customers and ensure that they share in any increased benefits from consolidation during the deferred rebasing period".[41] OEB staff submits that any balance in the proposed ESM account should be subject to review through the annual rate-setting process.

Otherwise, OEB staff has no concerns with the proposed sample journal entries in the draft accounting order and proposed disposition method (i.e., on annual basis through the rate applications process). OEB staff notes that the proposed Uniform System of Accounts (4395 Rate-Payer Benefit Including Interest and 2435 Accrued Rate-Payer

[39] MAADs for the former Orillia Power Distribution Corporation and Hydro One Networks Inc. (EB-2018-0270) and MAADs for former Peterborough Distribution Inc. and Hydro One Networks Inc. (EB-2018-0242).
[40] See footnote 39 above.
[41] Handbook to Electricity Distributor and Transmitter Consolidations, January 19, 2016, page 16.

Benefit) are appropriate accounts to record any earnings sharing. According to Article 220 of the Accounting Procedures Handbook, Account 2435 is to record the amounts over the ROE that will be returned to ratepayers as part of the profit-sharing mechanism incorporated in the incentive regulation plan.[42]

[42] Accounting Procedures Handbook, effective January 1, 2012

## 5. Is the proposal for the next rebasing period for the merged utility appropriate?

In response to an interrogatory from OEB staff, the Applicants proposed that the next rebasing for New NBH, following deferred rebasing, would be for rates effective May 1, 2027.[43] OEB staff takes no issue with the Applicants' proposal. However, noting that this will be the first rebasing application for the merged utility and that the Applicants intend to address rate harmonization between the Espanola Hydro and North Bay Hydro rate zones, OEB staff submits that New NBH will have to plan for and work towards filing the rebasing application around the middle of 2026.[44]

[43] Interrogatory,5-Staff-6
[44] Under current rate-setting policies of the OEB, cost of service applications for rates effective May 1 have a deadline of August 31 of the prior year.

## 6. Are the proposals with respect to rate-setting and accounting matters, including the treatment of deferral and variance accounts, appropriate and meet the requirements of applicable OEB policies?

The Applicants propose that the current approved Tariff of Rates and Charges of both North Bay Hydro and Espanola Hydro be transferred to New NBH upon completion of the Phase 2 transaction (assuming OEB approval). The licensed service areas will be transferred over and combined under North Bay Hydro's licence for the merged utility. As both Espanola Hydro and North Bay Hydro are subsidiaries 100% owned by NBH Holdings, there is no change in control. There are no identified changes in key personnel, and the Applicants will maintain staffed operations in the legacy service areas.[45] The service areas of the legacy North Bay Hydro and Espanola Hydro will be treated as separate rate zones until rebasing (at which time the Applicants propose that rate harmonization over the rate zones will be considered). OEB staff submits that this treatment is consistent with OEB policy regarding rate-making considerations resulting from MAADs applications.

OEB staff notes that Espanola Hydro has not completed the transition of its Residential Rate Design, moving customers in the Residential Customer Class to a fully fixed Monthly Service Charge, but that this should be completed (i.e., for 2026 distribution rates) as part of a 5-year plan agreed to as part of the Settlement Proposal accepted by the OEB in Espanola Hydro's 2021 cost of service application.[46]

**<u>Accounting Policies</u>**

In the Phase 1 MAADs Decision and Order, the OEB stated that:

> The Applicant's preliminary review has not identified material differences in the underlying accounting policies between North Bay Hydro and Espanola Hydro. The Applicant is ordered to complete its analysis of accounting policies and bring forward a detailed proposal as part of its cost of service rate application.[47]

The settlement proposal filed in Espanola Hydro's 2021 cost of service application and approved by the OEB stated that:

> The Parties agree that ERHDC has responded appropriately to the OEB's order in EB-2019-0015 that ERHDC complete an analysis on the differences in accounting policies between ERHDC and NBHDL. The Parties agree that nothing further is required as a result of this analysis on accounting policies.[48]

[45] Application, pp. 34-35
[46] EB-2020-0020, Decision and Rate Order, June 10, 2021, Schedule B: Settlement Proposal, pp. 28-29 of 65
[47] EB-2019-0015, Decision and Order, August 22, 2019, page 27
[48] EB-2020-0020, Settlement Proposal, page 42

OEB staff submits that there are no outstanding concerns regarding the accounting policies of the new amalgamated entity, as the Applicants have addressed the OEB's direction regarding the accounting policy differences in Espanola Hydro's last rebasing application.[49]

## Deferral and Variance Accounts

The Applicants request the OEB's approval for New NBH to continue to track costs and revenues in existing deferral and variance accounts (DVAs).

In responding to an OEB staff interrogatory on the notion of combining the Group 1 DVAs for the New NBH, the Applicants stated that the amalgamated company will have separate revenue and expense accounts for settlement purposes for the North Bay and Espanola service areas as commodity cost variances for each service area are settled with different suppliers (Espanola Hydro settles with Hydro One while North Bay Hydro settles with the IESO).[50] Even after merging, the separate settlement will continue, at least until rebasing.

As a result, OEB staff supports the separation of Group 1 accounts as proposed by the Applicants because the proposal is more practical and suitable for the two service areas within the New NBH. The situation may need re-examination at rebasing, particularly if rate harmonization is being proposed.

Regarding Group 2 DVAs, the Applicants stated that they intend to continue to track Group 2 accounts separately, except for Account 1592 – sub account CCA (capital cost allowance) Changes. Specifically, the Applicants state that:

> With the amalgamation, the two companies will begin filing taxes as New NBHDL and the two individual companies would cease to exist. As such, it would be very difficult to track Account 1592 – CCA changes.
>
> The applicants propose a combined Account 1592 for tracking purposes for the newly amalgamated company, assuming the Board approves amalgamation. The proposed methodology for tracking would be to determine the tax implications combining the two COS Decisions and comparing against the combined company. The 2022 stub periods for ERHDC and NBHDL would also be taken into consideration. The intent would then be to file a harmonized rate rider if applicable.[51]

OEB staff notes that, in their respective 2021 rate applications, North Bay Hydro and Espanola Hydro rebased under the Accelerated Incentive Investment Program (AIIP) rules and disposed the Account 1592 sub-account balances up to the year ended

[49] See also page 6 above
[50] Interrogatory, 6-Staff-7
[51] *Ibid.*

December 31, 2019.[52] The AIIP program is scheduled to start phasing out in 2024, which may result in under-recovery of Payment in Lieu of Taxes (PILs) by the time the merged utility is scheduled to rebase in 2027.

It is not clear to OEB staff how the proposed methodology for tracking the variances for the new amalgamated company in a single Account 1592 sub-account would work, or whether the proposal is appropriate. The proposed methodology seems to suggest a comparison between the aggregated CCA deductions embedded in the PILs amounts in North Bay Hydro's and Espanola Hydro's respective cost of service applications to the actual CCA deductions that will be claimed by the merged North Bay Hydro.

OEB staff notes that, to date, distributors have had 1592 balances approved for disposition by the OEB calculated as follows:

1) the difference between the CCA deductions that would have been claimed had the tax rules in place at the time of rebasing been applied, and the actual CCA claimed using revised tax rules, based on actual capital expenditures made in the year, or
2) the difference between the CCA deductions that were approved using tax rules in place at the time of rebasing and the CCA deductions that would have been approved had the revised tax rules been applied in the last CoS, based on the OEB-approved capital expenditures.

Neither scenario above is consistent with the Applicants' proposal (actual CCA claimed using revised tax rules vs. approved CCA deductions using the prior tax rules – in essence, a true-up of CCA). OEB staff further submits that there has not been sufficient opportunity to test the reasonableness of the proposed methodology in this proceeding and that these specific calculation details should be deferred to the proceeding in which disposition of Account 1592 – CCA Changes is being sought.

OEB staff notes that the 2020 and 2021 CCA differences that have been tracked and recorded in North Bay Hydro's and Espanola Hydro's separate accounts to date, can be disposed of in the New NBH's 2027 rebasing application. OEB staff takes no issue with the proposal to track and record the CCA differences in a combined account of the New NBH following amalgamation. However, OEB staff submits that the OEB would be assisted in making its decision on the appropriate 1592 sub-account calculations and balances at the time the balances (separate and/or combined) are brought forth for disposition and when all relevant factors are known (i.e., the calculation method for the balance in the account and the rate riders).

~All of which is respectfully submitted~

[52] AIIP provides for a first-year increase in capital cost allowance (CCA) deductions on eligible capital assets acquired after November 20, 2018. Account 1592 – sub-account CCA Changes was introduced by the OEB by way of a letter issued June 25, 2019, to track the impact of the AIIP on the tax expense recovered through rates and the taxes payable. The AIIP begins to phase out in 2024.