



# EXHIBIT 4

## OPERATING EXPENSES

EB-2022-0016

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## **4 OPERATING EXPENSES**

### **4.1 Overview**

The operating costs found in this Exhibit represent the expenditures that are required to maintain and operate Bluewater's distribution system assets at the targeted levels of performance, in order to meet customer expectations, ensure public and employee safety, and provide quality service. These operating costs are necessary to comply with customer expectations, the DSC, other OEB codes, environmental requirements, and to respond to government regulatory changes.

The data and analysis presented throughout this Exhibit demonstrates that Bluewater has its OM&A increase for ratemaking close to the level of inflation over the period from 2013 to 2023. This has been accomplished through efforts to identify efficiencies, including its approach to find Economies of Scope. That success relates primarily to our efforts to maintain payroll costs despite the challenge of managing an aging workforce in a competitive employment market as is discussed in Section 4.4.2 - Human Resources Strategy.

The increase in OM&A over the ten-year period from 2013 to 2023 is 28%, for a 2.5% Compound Annual Growth Rate. As a result, the forecast increase in OM&A from 2013 to 2023 is reasonably in line with inflationary pressures over the same period. The evidence demonstrates a relatively steady trend over that period, although the years 2020 and 2021 were extraordinary years due to the COVID-19 Pandemic and the influence of a major billable project driven by outside demand described as the Oversized Load Corridor Project ("OLC Project"). The influence of those two factors led to an unsustainable decrease in OM&A for those two years; those years aside, Bluewater believes its forecast OM&A for the 2023 Test Year represents a reasonable increase over the period from 2013 to 2023.

The remaining portion of this “Overview” section provides the context of Bluewater’s claim for OM&A that is contained in this rebasing application. That overview includes the following items:

- Overall 2023 Test Year proposed OM&A
- Budgeting process
- High level cost drivers from 2013 OEB approved to 2023 Test Year
- Overall trends in costs
- Inflation impacts
- Business Environment changes

This Exhibit 4 contains detailed analysis of the drivers of costs at the practical level expected by the Filing Guidelines, with those costs defined by Bluewater as the Cost Drivers affecting rates, but this Exhibit also contains a detailed analysis at the Program Level as required by the Filing Guidelines. As a service oriented public utility with a philosophy of bringing work in-house where feasible and cost-effective, as will be discussed in the HR Strategy, the majority of OM&A relates to employee costs. Also key to Bluewater’s ability to control OM&A has been its effort to achieve savings through Economies of Scope by sharing management and staff with affiliates; an item that is discussed in Section 4.5 - Shared Services and Corporate Cost Allocation. Complimentary to that approach is a further focus on completing the increasing capital demands of the utility with internal resources. The achievement of those economies has been accomplished through increased supervision and project management support of a professional and motivated staff.

Section 4.2 OM&A Summary and Cost Driver Tables contains excerpts of the OEB Appendices 2-JA (Summary of Recoverable OM&A, 2-JB (OM&A Cost Drivers), 2-JC (OM&A Programs) and 2-L (OM&A per Customer and FTE).

Section 4.3 OM&A Variance Analysis provides an analysis of OM&A Cost Drivers and of the OM&A Programs as required by the filing guidelines.

Section 4.4 Workforce Planning and Employee Compensation contains a comprehensive discussion of Bluewater's Human Resource Strategy, including a detailed variance analysis of FTE Count. As will become clear, Bluewater has held its increases in OM&A to modest levels through efficiencies, including its approach to Economies of Scope.

Section 4.5 Shared Services and Corporate Cost Allocation contains a thorough discussion of the financial benefits of sharing staff and resources between a regulated utility and its affiliates.

Finally, as a compliment to the discussion of the HR Strategy, the remaining costs of Bluewater come from purchases, so Section 4.6 Non-Affiliate, One-Time, Regulatory Costs contains a discussion of Bluewater's procurement practices and other OM&A items.

#### ***4.1.1 OM&A Test Year Levels***

Presented below in Table 1 is a summary of Bluewater's total OM&A expenses for the 2023 Test Year including a comparison to 2013 OEB Approved, 2021 Actuals and 2022 Bridge Year. Bluewater is proposing recovery through distribution rates of OM&A, not including property taxes, in the amount of \$15,763,833 for the 2023 Test Year.

One adjustment has been required in Table 1 for the column entitled '2013 Approved Re-categorized' in order to allow the annual variance analysis to be more accurate. Bluewater's 2013 Settlement Agreement<sup>1</sup>, includes the values presented in the first column in Table 1 below entitled '2013 Settlement Agreement'. During the 2013 fiscal year (that is, after the Settlement Agreement), Bluewater reviewed its allocation of payroll costs and reallocated \$189,317 from Administration Expense (Account 5605) to Operating Expense (Account 5040) to better reflect the nature of the costs, and that is reflected in the column entitled "2013 Approved Re-categorized". The bottom line total cost of \$12,277,560 remains unchanged, just the allocation to cost accounts differs between the first two columns. All other years include this change and, therefore, this application will reference the "2013 Approved Re-categorized" as

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<sup>1</sup> EB-2012-0107, Page 28, Table 8

the "OEB Approved" throughout the document in order to make annual comparisons more accurate and meaningful. Bluewater notes that the increase in Maintenance Expense results from refinement in the allocation of costs at the OM&A Program level discussed at the outset in Section 4.3.2 below.

**Table 1: Summary of Total OM&A Expenses**

	<b>2013 Settlement Agreement</b>	<b>2013 Approved Re- categorized ("OEB Approved")</b>	<b>2021 Actual</b>	<b>2022 Bridge Year</b>	<b>2023 Test Year</b>
Administrative	6,852,605	6,663,289	6,296,415	6,591,705	7,183,003
Billing & Collecting	1,737,464	1,737,463	2,121,802	1,933,180	2,013,816
Community Relations	245,981	245,981	171,438	142,483	176,527
Maintenance Expense	136,331	136,331	1,082,632	1,294,093	1,453,769
Operating Expense	3,305,179	3,494,496	3,520,216	4,479,433	4,936,718
<b>Grand Total</b>	<b>12,277,560</b>	<b>12,277,560</b>	<b>13,192,502</b>	<b>14,440,894</b>	<b>15,763,833</b>

The Operating, Maintenance, Administration are known as OM&A. Property Taxes and PILs are not included in the OM&A as per the Filing Guidelines<sup>2</sup> and are detailed separately in Exhibit 6 of this application. Similarly, depreciation is not included in OM&A and is detailed in Exhibit 2 of this application.

Bluewater confirms that the 2022 Bridge Year and 2023 Test Year budgets do not have any inclusions or assumptions for incremental expenses related to COVID. For a further discussion of COVID related issues see Section 1.10 – Impacts of COVID.

This application is prepared on a MIFRS basis. The previous COS rebasing application (EB-2012-0107) was also filed on a MIFRS basis in accordance with the Filing Guidelines. With the decision by Bluewater to delay conversion to IFRS for external reporting purposes until 2015, Bluewater was still able to satisfy

<sup>2</sup> OEB Filing Guidelines dated April 18, 2022, section 2.6.2

1 the requirements of the OEB as set out in the letter dated July 17, 2012 by changing its depreciation and  
2 capitalization policies to be on a MIFRS basis as presented in EB-2012-0107.

3 There has been no change to Bluewater's depreciation and capitalization policies since its last rebasing  
4 (EB-2012-0107). Bluewater notes that there was a correction of an error in the treatment of amortization  
5 on Capital Contributions discussed at Exhibit 2, Section 2.2.5.

#### 7 **4.1.2 Materiality Threshold**

8  
9 The materiality threshold used for variance explanations in this Exhibit is \$130,000 as outlined in Exhibit  
10 1, Section 1.3.6.

#### 12 **4.1.3 Budget Process**

13  
14 The OM&A expenses for the Bridge Year and Test Year were forecast using a zero based methodology.  
15 Prior years' experience for many items strongly influence the budget as consideration of trends and one-  
16 time factors are taken into account. As with the normal budget process, the Finance Department initiates  
17 the process and coordinates the capital and expense budgets. Preliminary analysis is prepared and sent  
18 to each department head for review and updates. Internal meetings are held with the Senior  
19 Management Team where all budgets are reviewed and critiqued as a group for full understanding of any  
20 material increases or decreases to the budget. Ultimately, the Board of Directors reviews the budget and  
21 approves it in November each year. For the purposes of this rate application, the Board of Directors  
22 approved the 2023 Test Year budget, as well as an update to the 2022 Bridge Year budget based on  
23 material events in the year to date.

24  
25 The Distribution System Plan ("DSP") also forms an important consideration during the budget process.  
26 The capital budget seeks to ensure the safe and reliable delivery of electricity in order to meet the  
27 expectations of customers. The DSP is provided at Exhibit 2.

**4.1.4 Inflation**

**4.1.4.1 Inflation Rate Assumed**

For 2022 and 2023, Bluewater incorporated Cost of Living ("COL") increases for union employees at the level required by the current Collective Agreement (which covers the period from April 1, 2021 to March 31, 2027), being an increase 2.0% each year. This Collective Agreement was negotiated in the early part of 2021, prior to indications that inflationary increases due to COVID were not simply transitory. Given current inflationary trends, it would seem unlikely a similar agreement could be reached for the current term if the Collective Agreement were negotiated today.

For non-union employees, there is no pre-existing negotiation for COL. Given the inflationary pressures that exist and the competitive nature of the labour market locally, Bluewater expects upward pressure on salaries. In fact, recent trends suggest that expectations for salary increases next year will be in the range of 4.1%<sup>3</sup>. Accordingly, the COL for all non-union employees has been included at a 4.0% increase for 2023.

For non-labour items, the 2022 Bridge Year is based on the 2022 budget figures, which were updated with forecasts based on material known variances observed in year-to-date actuals as of May 31, 2022. In particular, specific items, such as known changes in FTE's, fuel costs, and tree trimming were updated in order for 2022 to be more representative of current trends. As of July 2022, Bluewater has seen a further average increase in the moving average cost of its materials of approximately 9.8% over 2021 costs. For the 2023 Test Year, an inflation factor 10% has been applied to expenses related to fuel, materials and fuel related services such as snow and waste removal. A 4% inflation factor has been applied to other expenses, for an average inflation factor of 6.6%. Expenses with known increases such as vegetation management have not had an additional inflation factor applied to them.

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<sup>3</sup> <https://www.ctvnews.ca/business/employers-in-these-provinces-are-projecting-the-largest-average-salary-increases-next-year-1.6086018>



**4.1.4.2 Current Inflation Rates**

Canada's annual inflation rate reached its highest level in nearly 20 years, when the June inflation rate of 8.1% was announced by Statistics Canada. Inflation has cooled modestly in recent months, but still exceeds 7.5%. These are unprecedented times and the full impact and duration of this inflationary trend is not fully known. Bluewater has closely monitored the impacts of inflation on its costs and, in fact, this application was delayed to allow the most accurate picture to be presented to the Ontario Energy Board.

As part of this application process, Bluewater updated its 2022 Capital and OM&A budgets for the purposes of this rate application. The 2023 Test Year was subject to further scrutiny prior to filing in light of inflation but, nevertheless, Bluewater reserves the right through the interrogatory process to provide further updates related to inflation in the event of potentially extraordinary circumstances.

**4.1.5 Overall Cost drivers**

In accordance with the filing guidelines, Bluewater has identified eighteen individual cost drivers that contain a material variance in any year. Those Cost Drivers are discussed in Section 4.2 - OM&A Summary and Cost Drivers. This section will provide the cumulative impact of cost pressures over the entire ten-year period from the 2013 OEB Approved to the 2023 Test Year, as summarized in **Table 2**.

**Table 2: Overall Cost Drivers**

<b>Cost Drivers</b>	<b>2013 OEB Approved to 2023 Test Year</b>
2013 OEB Approved	12,277,560
Net Payroll and Benefit Changes	1,816,100
Employee Future Benefits	(267,550)
Vehicle costs, net of Capital and Billable	99,000
Postage	138,600
Vegetation Management	273,600
Technology & Security	514,100
Contracted Services	175,688
Other	736,735
<b>2023 Test Year</b>	<b>15,763,833</b>
<b>Increase</b>	<b>3,486,273</b>
<b>Compound Annual Growth Rate</b>	<b>2.50%</b>

Approximately half of the increase in OM&A over the past ten years is explained by the Net Payroll and Benefit Changes. The increase of \$1.8 Million is the cumulative increase in Payroll and Benefits, offset by allocation of such costs to Affiliates, Billable Work and Capitalization of Labour. Provided in **Table 3** are the details of the net change in Payroll and Benefit costs from 2013 OEB Approved to 2023 Test Year. The details of each Cost Driver listed in **Table 3** can be found as the cumulative total of the annual variance for such Cost Driver in Section 4.3.1 – Variance Analysis of Cost Drivers.

**Table 3: Payroll and Benefit Changes 2013 Approved to 2023 Test Year**

Changes in Compensation	3,153,400
Net change in FTE's	1,634,400
Burden & Benefits	841,700
<b>Gross Payroll and Benefits Increase</b>	<b>5,629,500</b>
<b><u>Allocations of Payroll and Benefits:</u></b>	
Affiliate	(687,200)
Billable work	(243,600)
Capital Work	(2,882,600))
<b>OM&amp;A Offsets</b>	<b>(3,813,400)</b>
<b>Net Change to Payroll and Benefits</b>	<b>1,816,100</b>

The net change in Payroll and Benefits of \$1.8 million represents an increase in cost that is less than the increase that would have been expected from Cost of Living increases alone. This successful result in managing workforce cost pressures reflects the following:

- (i) Economies of Scope have increased in 2023, such that an additional amount of \$687,200 has been removed from OM&A to be recovered through rates when compared to 2013; this includes an increase in fixed costs allocated to affiliate in the amount of approximately \$150,000 and an increase of approximately \$500,000 forecast to be allocated to affiliates based on demand driven needs, all of this is discussed in greater detail in Section 4.5 - Shared Services and Corporate Cost Allocation;
- (ii) increased demand from customers for upgrades to the distribution system has driven the allocation of an additional \$243,600 in cost that would otherwise form part of OM&A (or potentially Capital) sought to be recovered from customers as discussed in Section 4.3.1 - Variance Analysis of Cost Drivers;

- 1 (iii) aging infrastructure and heightened customer demands have resulted in an increase in  
2 Capital Spending by 129% from 2013 Actual to 2023 Test Year, which is reflected in a 151%  
3 increase in Capitalized labour made possible by hiring of new employees and a renewed  
4 focus on completing capital using in-house resources rather than outside contractors, all  
5 of which is discussed further in the Capitalized Labour Cost Driver found in Section 4.3.1  
6 - Variance Analysis of Cost Drivers; and  
7 (iv) the success of Bluewater's efforts to find efficiencies, including the reduction of 4.75  
8 FTE's in administrative and meter/billing functions, which savings are included in the  
9 discussion found in Section 4.1.8 - Cost Efficiencies.

10 All of the above was made possible through improvements in the management of staff resources and  
11 project management, including adding an additional lines supervisor in Operations, and a Manager of SAP.  
12 This reinforced management team in Operations, in particular, complimented the availability of work  
13 from a broader range of sources; namely maintenance work driven by the operations group, capital work  
14 driven by the engineering group, affiliate work driven by those affiliates, and billable work driven by  
15 customer demands. Bluewater has driven a more efficient and effective workforce based on its ability to  
16 avoid bottlenecks in planning/scheduling and motivate its workforce through a variety of work. The  
17 discussion of these efficiencies can be found in Section 4.4.2 - Human Resources Strategy.

18  
19 The remaining Cost Drivers identified in **Table 2**, are explained in summary below. Greater detail can be  
20 found in Section 4.3.1 - Variance Analysis on Cost Drivers.

21  
22 **Employee Future Benefit:** The decrease of \$267,550 represents the 10 year change in FTE's, employee  
23 demographics, benefit programs and discount rates. The decrease in expense is primarily driven by cost  
24 savings achieved starting in 2006 with changes to retiree benefits (see Section 4.4.2 – Human Resources  
25 Strategy).

26  
27 **Vehicle Costs, net of Billable allocations to Affiliates and allocations to Capital:** The growth in Vehicle  
28 Costs is nearly offset by the growth in allocations to billable and capital work. The net increase of \$99,000  
29 in OM&A is further offset by growth in "other revenue" from affiliates for vehicle rentals in the amount

of \$40,000 in additional rent since 2013. The net increase, therefore, is \$59,000 over ten-years which represents an increase of 20% over the amount of \$293,797 applied for in the 2013 rebasing application, which is below inflation over that time-period. The cost increase would relate to inflation on fuel, maintenance and licensing costs.

**Postage:** The increase in postage of \$138,600 is primarily driven by the requirement to move all customers to monthly billing in 2017. Bluewater has enjoyed significant success in transitioning customers to electronic billing, but those savings are offset by increases in cost due to inflation.

**Vegetation Management:** Bluewater has primarily relied on outside third parties to complete its vegetation management program, but there is also an allocation driving approximately \$60,000 of the variance as Bluewater now records internal time (labour and trucks) expended on tree trimming. Following challenges with its outside contractor during COVID, Bluewater issued a Request for Proposals in 2022 that resulted in a new third-party contractor for both its four-year regular cycle and its demand driven tree trimming. Bluewater has noted that an increasing number of outages had been caused by tree contacts and as a result has increased its vegetation management budget.

**Technology & Security:** There have been increasing pressures on both hardware and software to support the business needs of Bluewater over the ten-year period since 2013. Of the increase identified in the amount of \$514,100, we can identify two costs driven by mandatory OEB requirements as follows:

- \$115,200 for communication costs required to deploy interval meters for GS>50kW customers
- \$119,154 as the operating cost to-date, only, in implementing CyberSecurity

There are two further incremental cost increases described as follow:

- A one-time increase of \$32,745 in costs for fibre optic telecommunication needs for the head office at 855 Confederation Street
- Bluewater has faced growing software needs related to, for example, fleet management, data centre management, social media, remote work, outage management, and engineering standards, with the top 10 such new software needs totaling a cost of approximately \$78,000 per year

The remaining increase in the amount of \$169,001 relates to annual costs for other miscellaneous and minor new software needs, increases in number of licences for existing software, as well as inflationary pressure on software maintenance fees.

**Contracted Services:** The \$175,688 increase is primarily related to a step-like increase of approximately \$106,000 related to Smart Meter costs due to the addition of one transmitter in response to data transmission issues in outlying areas, changes in the exchange rate on US dollars which has increased by 8% over the period, as well as growth in number of meters. The remaining driver of the increase relates to inflation and changes in demand for services. No one year has a material increase, so the annual variances for Contracted Services form part of “Other Miscellaneous” in Section 4.3.1.

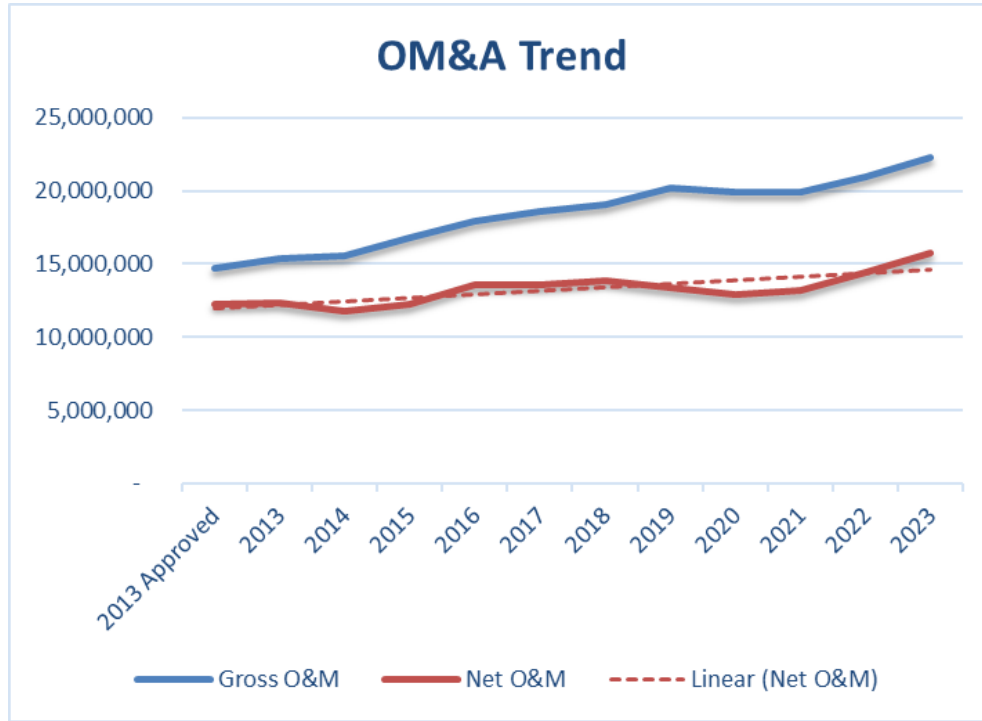
**Other:** The remaining increase of \$736,735 represents an increase of approximately 21% over 10 years, which is in line with cost pressures from inflation.

#### **4.1.6 OM&A Trends**

Bluewater deploys three strategies to reduce the OM&A to be embedded in distribution rates for recovery from customers. First, Bluewater achieves Economies of Scope by sharing employees and assets with affiliates. Second, Bluewater ensures customers directly responsible for changes to the distribution system pay their share of such costs, and that the work on the distribution system is performed with internal resources. Finally, Bluewater has increasingly promoted a philosophy to perform capital work using in-house resources and has strategically developed a management team and skilled trades to ensure that capital is done efficiently.

The result is that the OM&A claimed for recovery from customers is reduced from the gross level of spending to a net amount. **Table 4** demonstrates the success of these efforts with the increasing gap between Gross OM&A as compared to the Net OM&A to be recovered from customers through rates. Also included in the graph for Net OM&A is the statistical trend line that demonstrates a drop in spending below the trend line in the period from 2014-2015 and from 2020-2021, which will be discussed later.

**Table 4: Gross vs. Net OM&A**



Through these Economies of Scope, supported by efforts to find efficiencies discussed in Section 4.1.8 - Cost Efficiencies, Bluewater has been able to control the increase in net OM&A to be in line with inflationary pressures. Net OM&A in 2013 OEB Approved was \$12.3 million, which has grown to \$15.7 million in 2023, which represents a 2.5% compounded growth rate over that ten-year period, an accomplishment that has helped Bluewater to defer its rebasing application for five years.

In effect, therefore, Bluewater has improved the efficiency of the deployment of its resources through close management of staff and the availability of multiple sources of work in the form of Capital, Billable and Affiliate work, which helps to avoid bottlenecks in the process. The efforts to drive these efficiencies and to provide a more varied and rewarding workplace for its employees are discussed in Section 4.4.2 - Human Resources Strategy”.

Bluewater runs its resources on a lean basis compared to the workload available. The Company does not “staff up” to meet peak demands for Capital or Maintenance. This can create a temporary strain in the

1 ability to meet the Capital and Maintenance needs of the utility, but Bluewater has managed its resources  
2 to ensure that reliability is not compromised. As demonstrated in **Table 4**, the trend in Net OM&A has  
3 been a reasonable increase over the 10 year period since 2013, but there are two time periods where  
4 actual Net OM&A dropped to unsustainable levels. The graph provided includes the statistical trend line  
5 in Net OM&A, and there are two periods where actual spending drops below the trend line, being the  
6 period from 2013-2014 and 2020-2021. The period from 2013-2014 represented a particularly challenging  
7 time in recruiting trade staff, which resulted in challenges to meet Capital and Maintenance. The period  
8 from 2020-2021 was challenged by COVID and a billable project that will be discussed below. As the graph  
9 demonstrates, Net OM&A recovered to sustainable levels in the year 2015, and it is forecast to recover  
10 toward the trend line in the years 2022 and 2023.

11  
12 The unusual drop in net OM&A for the years 2020 to 2021 was caused by a drain on the resources of  
13 Bluewater, driven by the substantial Billable Work associated with the Oversized Load Corridor Project  
14 and, of course, by COVID. Together, these factors led to a level of net OM&A in 2020 and 2021 that would  
15 have been unsustainable over the long-term. Although the year 2022 has not been free of COVID  
16 constraints nor demands from the Oversized Load Corridor Project, year to date spending in 2022 is on-  
17 track to more normal levels of spending.

18  
19 In submitting the level of OM&A included in the 2023 Test Year, Bluewater has included efficiencies that  
20 we intend to demonstrate are sustainable. The ability to sustain those efficiencies depends upon the  
21 realization of several factors, some of which are outside of the control of the utility. First, the approval of  
22 the 2023 Capital Budget submitted with this application, which includes the growth in capitalized labour  
23 shown in **Table 3** above. Second, that the Billable revenue that has been on an upward trend continues  
24 at those levels. Third, that the level of activity and the relationship between Bluewater and its affiliates  
25 continues as proposed in this application. Finally, the level of inflationary increases included in this  
26 application are estimates given the best information that is available at the time of writing this evidence;  
27 however the future represents a profound unknown in these unprecedented times. In the event of a  
28 change to any of these assumptions in the Test Year that are known prior to, or as part of this approval,  
29 then the consequence may be an increase in the level of OM&A to be claimed for recovery through rates.



1 Bluewater faced challenges due to COVID, but those challenges were compounded for Bluewater by an  
2 extraordinary once-in-a-lifetime billable project; the Oversized Load Corridor Project (“OLC Project”). This  
3 project was led by local and regional municipal governments and funded, in part, by private donations  
4 and contributions from higher levels of government. The OLC project was a significant priority for our  
5 community and Bluewater participated to make improvements to its system, despite the strain already  
6 imposed on our workforce by increased levels of capital spending and, soon to be at the time, COVID.

7  
8 The OLC Project was not only a strain on our workforce, it was also one of the reasons that Bluewater  
9 requested deferral of the 2022 Rate Application<sup>4</sup> because it provided a financial bridge to ease the  
10 pressure on the need for rebasing. The OLC Project had a total value of \$4.1 million to Bluewater, and  
11 that level of billable revenue included \$612,000 in labour recovered from third parties that would have  
12 otherwise been funded by distribution rates. That level of increased billable revenue would be difficult to  
13 sustain but, as stated in the deferral letter, the project did not compromise the system. That is to say, the  
14 demands from OLC Project did not prevent Bluewater from completing critical maintenance and critical  
15 capital, but it did mean that resources were not available to do the level of maintenance that would be  
16 required for long-term stability. Simply put, Bluewater managed its system through the OLC Project, but  
17 maintenance costs incurred in those years do not represent a sustainable level of spending.

18  
19 In order to put the OLC Project in context, we take this opportunity to provide some detailed background  
20 and further analysis. The OLC Project was a government-backed initiative to allow for passage of oversized  
21 vessels from the Sarnia harbour to local industrial plants, and from local manufacturers of large vessels to  
22 the harbour. The City of Sarnia (together with St. Clair Township to the south) continues to be home to  
23 Canada’s “Chemical Valley”, with four refineries and several rubber and plastic manufacturing facilities  
24 together with supporting industries. In order to facilitate the movement of vessels, which can be described  
25 as pre-assembled components to an industrial plant (often measuring 30 feet in height, 30 feet in width  
26 and 150 feet in length) into and out of Chemical Valley, local leaders sought provincial and federal funding  
27 to remove barriers, like low wires, so that large vessels could proceed unhindered. The overall cost of the

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<sup>4</sup> EB-2021-0008, Bluewater Letter dated December 16, 2020

1 OLC Project was more than \$17 million, including \$4.1 million required to relocate Bluewater overhead  
2 infrastructure, with all costs to be paid-for from the funds raised.

3  
4 In order to fully understand the scope of the OLC Project, consider that the Capital Budget for “poles and  
5 wires” investments in that timeframe was in the range of \$7 Million per year (approximate total of System  
6 Access and System Renewal). Accordingly, the additional revenue of \$4.1 million required by the OLC  
7 Project effectively represented an expansion of the “poles and wires” capital budget nearly 25% in each  
8 of the years 2020 and 2021, with some spill over in 2019 and 2022. The Billable Revenue earned by  
9 Bluewater as other revenue from the OLC Project is presented in **Table 5** below by year and, included as  
10 the right hand column, is the labour cost for the revenue earned.

11  
12 **Table 5: Oversized Load Corridor Billable Revenue**

13

Year	Billable Revenue (\$)	Labour Cost built into Revenue (\$)
2019	269,003	120,886
2020	1,861,888	503,827
2021	1,581,603	612,756
2022	370,288	130,974

14  
15  
16 The OLC Project was underway at a time, of course, where Chemical Valley was in rapid expansion. NOVA  
17 Chemicals was embarking on a \$2 billion build that would benefit from the OLC Project if completed in  
18 time; at the same time, the NOVA Project and other ongoing projects created significant demands in the  
19 workforce for skilled trades locally. This added to the challenge of recruiting personnel for Bluewater, as  
20 discussed in the Human Resources Strategy, and also made qualified line contractors in short supply.  
21 Bluewater is pleased to say that the utility emerged from COVID and the OLC Project a stronger utility, but  
22 the demands over that time-period on staff and resources were at a level of pressure that was  
23 unsustainable.

**4.1.7 The Increase in OM&A from 2021 Actual to 2023 Test Year**

In assessing the reasonableness and prudence of a utility's OM&A claim, Bluewater acknowledges that it is instructive to compare the Test Year to recent year actuals. The drive for efficiencies is evident for Bluewater, but we must point out again, in this context, that neither of the years 2020 or 2021 are sustainable representations of the utility's required OM&A spending. In making that statement, we expect a similar statement is true for many utilities due to the impacts of COVID, but the impact of the pandemic is compounded in the case of Bluewater due to the extraordinary demands placed on resources due to the OLC Project.

This 2023 Application will capture sustainable efficiencies realized by the utility since 2013, but it must also account for new obligations imposed upon the utility and other costs beyond the control of utility management. Without consideration of new cost drivers, the resulting rate would hinder the ability of a utility to maintain its system and provide the level of service required by the OEB and expected by customers. Those changes and growing demands are discussed in the section that follows.

We note that **Table 6** produces the Compound Growth Rate from 2013 Actuals to the last historical year of 2021. The "Compound Growth Rate (2021 vs. 2013 Actuals)" of 0.9% is not a reasonable representation of a sustainable growth rate over that 8-year period due to several factors. In particular, the 2021 OM&A stands out as below the statistical trend line included in **Table 4**. This exhibit has spoken generally to COVID and the OLC Project, but the following extraordinary items are provided to highlight the impacts on 2021 Actuals:

- (1) COVID resulted in a reduction in costs attributable to the pandemic in the year 2021 in the amount of \$136,300. These costs do not include intangible costs related to delays in hiring permanent staff or students due to COVID-related restrictions;
- (2) The OLC Project resulted in significant demands on staff, such that included in the \$1.581 million charged to the City and County for the OLC Project in the year 2021, there was \$612,756 in labour (regular and overtime) that was not available to perform Capital or Maintenance work at the utility;

(3) The year 2020 and 2021 represented unprecedented years for turnover in staff never seen before by Bluewater, and the result was that the FTE count dropped by approximately 5 FTE's from 2019 to 2021 (see OEB Appendix 2-K); and

(4) Due to challenges faced by our third-party contractor performing tree trimming, being challenges related to COVID and local workforce issues, the Vegetation Management budget for 2021 was at an unsustainable level representing an underspend of the budget by approximately \$80,000 in the year.

Bluewater respectfully submits that the adjustments set out above would be essential to be considered in order to facilitate any valid comparison of any year to 2021 Actuals, whether compared to prior years as in **Table 6** or to the 2023 Test Year.

Furthermore, and with the above context in mind, any comparison of 2021 OM&A to the 2023 Test Year would have to adjust for those extraordinary items listed above, plus the specific cost drivers listed below as the primary cost drivers between 2021 and 2023:

- Bluewater achieved success in recruiting Powerline Technicians in 2022, and we completed recruitment of one further IT professional in order to further efforts to manage software systems in-house. Two Damage Prevention Technicians were recruited to complete the work previously undertaken by higher cost personnel (one retired Locator with supplementary assistance from Powerline Technicians). There are no new staff adds proposed between 2022 and 2023, so the only impact between 2021 and 2023 are the staff adds listed above in 2022 and the full-year impact of those staff adds in 2023
- Regular progression and Cost of Living has been forecast for 2022 and 2023, but we note that Cost of Living for non-union staff has been set at 4% which is more fully discussed in Section 4.3.1 under the heading "Changes in Compensation"
- As set out in Section 4.4.2 - Human Resources Strategy, Bluewater has forecast 25 retirements over the next five years and, therefore, there is an expectation of incremental succession planning related costs in 2023 related to 5 potential retirements, which costs become a regular on-going cost over the next five-year IRM horizon

- The remainder of the increases in 2021 to 2023 relate to significant inflationary pressures on materials and purchased services at levels not experienced previously. These inflationary pressures are discussed in Section 4.1.4 - Inflation

#### **4.1.8 Cost Efficiencies**

Like any modern organization, Bluewater is on a path of continuous improvement in the quest for cost savings and efficiencies. The desire to identify efficiencies is rewarded at times with “large ticket items” such as a reduction in FTE’s, but small efficiencies have also contributed to the success of Bluewater in managing cost. This section will speak to the reduction in FTE’s through attrition, success in replacing retirements with lower cost positions, as well as the continuous effort to identify savings in day-to-day operations and in capital spending.

The key indication of Bluewater’s success in managing cost is the fact that Bluewater has kept OM&A to be recovered through rates largely in line with inflation over the period from 2013 to 2023. Much of that success can be attributed to our Economies of Scope, which is discussed elsewhere in this application. This section, however, will focus on other efforts to identify specific actions that Bluewater undertook to reduce OM&A over the past decade.

Employee related costs represent the key opportunity for a utility to find efficiencies. With this application, Bluewater seeks to reduce the number of FTE’s embedded in OM&A forming rates by approximately 3.3 FTE’s (See Section 4.4.2.5 – FTE Variance Analysis), which demonstrates that the 2013 Actual rates included 80.5 FTE’s whereas the FTE’s included for recovery in 2023 has been reduced to 77.2 FTE’s). That reduction of 3.3 FTE’s was accomplished as follows:

- Set out below, Bluewater has identified 4.75 FTE’s that were eliminated as a result of efficiencies that primarily impacted OM&A, rather than Capital
- Those reductions were offset by increased FTE’s in other areas, but those new bodies were primarily necessary to accommodate demands from a significantly increased Capital program. Accordingly, the net impact of new bodies, less capitalization and allocation to billable work and

1 affiliates, was an offsetting increase of approximately 1.5 FTE's (being the difference between the  
2 specifically identified 4.75 FTE reduction and the overall effective reduction of 3.3FTE's). The  
3 increase in Capitalized labour is attributable to both the increase in capital spending (nearly  
4 doubled from \$6.5 million in 2013 to \$12.4 million 2023), as well as the strategic decision to  
5 complete capital with in-house resources for both Operations and IT  
6

7 Bluewater examines each position at the time of turnover to assess whether the position can be combined  
8 with another role, or the responsibilities distributed amongst multiple positions. Over the past decade,  
9 Bluewater has successfully reduced 4.75 FTE's from those positions that were embedded in the 2013  
10 Rates. Those FTE reductions are as follows:  
11

- 12 • Stock keeper (FTE -0.5): A full-time position was eliminated and replaced with a ½ FTE
- 13 • Customer Service Field Representative (FTE -1.0): a full-time position was not replaced after  
14 retirement of the incumbent in 2014
- 15 • Financial Analyst (FTE -1.0): position not replaced following a retirement in 2021, which was made  
16 possible due to efficiencies achieved through automation of timesheets (in-house developed  
17 software known as TALLY) and other business processes
- 18 • CDM (FTE -0.5): Included for recovery in 2013 Rates was a ½ FTE dedicated to Key Account  
19 Management; the position became fully dedicated to CDM (prior to being eliminated at the end  
20 of IESO funding), with Key Account Management responsibilities assumed by engineering and  
21 billing
- 22 • Research and Development Analyst (FTE -0.75): Included for recovery in 2013 Rates was ¾ FTE  
23 dedicated to research and support in regulatory, distributed energy and innovation; the position  
24 became fully dedicated to CDM (prior to being eliminated at the end of IESO funding), with  
25 responsibilities distributed amongst several employees
- 26 • Metering Coordinator (FTE -1.0): The position was not replaced at the time of retirement in 2021,  
27 with responsibilities assumed by engineering and billing  
28

29 Bluewater works very closely with its union to negotiate reasonable means to reduce costs without  
30 eliminating positions. Two such examples are as follows:

- 1       • Where it is not possible to eliminate a position, savings have been obtained by replacing senior  
2       positions with lower cost replacement positions. Recently, Bluewater considered contracting out  
3       its locating services, but the union agreed to replace the Locator (which traditionally required the  
4       candidate to be a trained Powerline Technician) with a new position within the Collective  
5       Agreement now known as Damage Prevention Technician. This resulted in total savings of \$50,000  
6       annually for these two FTE's
- 7       • As set out in Section 4.4.2.4.1 under the heading of "Compensation Strategy for Unionized  
8       employees", Bluewater successfully navigated a difficult union negotiation in 2014 that resulted  
9       in long term savings built into the Collective Agreement that have saved the utility an amount  
10      conservatively estimated as \$685,000 over the eight year period from 2014 to today

11  
12      The regular budget process for Bluewater also includes consideration of opportunities to find savings in  
13      regular operations. Bluewater has an opportunistic approach to savings through regular dialogue amongst  
14      departments, and with other utilities through organizations like Utility Standards Forum and the Electricity  
15      Distributors Association. No saving is too small to pursue and some examples are as follows:

- 16  
17      • In 2021, Bluewater surveyed other LDCs and determined that its long-standing practice of  
18      patrolling after an auto-reclose was no longer common practice; eliminating this practice saves  
19      on overtime trouble shooting costs in the range of \$30,000 per year
- 20      • Capital Investments can often lead to OM&A savings, such as the Wanstead Transmission Station  
21      upgrade done in cooperation with Hydro One Networks, which significantly improved reliability  
22      in our rural areas, resulting in reduced overtime and maintenance costs while our crews stand-by  
23      waiting for restoration of the loss of supply
- 24      • As set out in Section 4.3.1, COVID led to changes in the way business is conducted, with less travel  
25      and increased in-house or online training; altogether this generates sustainable annual savings  
26      estimated at \$24,500 per year
- 27      • Bluewater developed in-house software known as ARC (short for "Archive") to manage  
28      documents which creates internal efficiencies everyday for customer service, finance, legal and  
29      engineering in their respective searches for documents, as well as modest savings in fees for  
30      outside document storage

- Continuous process improvement in our dealings with customers drive savings in areas such as:
  - (i) email welcome letters to new customers eliminating paper and postage cost, (ii) e-billing rates have reached an incredible 35% of customers which drives further savings, and (iii) a proposed upgrade to the Customer Information component of SAP will reduce the number of steps to accommodate customer move-outs, thereby driving efficiencies that will contribute to avoided overtime costs

Utilities in Ontario face consistent change in demands, whether due to changes affecting all companies such as CyberSecurity threats, or changes in the legislative and regulatory environment such as Green Button and the mandatory requirement for monthly billing. Bluewater approaches each new incremental demand from a critical perspective and with an approach that seeks to manage the impact on OM&A. Cost avoidance is the key, and mandatory monthly billing is an excellent example of Bluewater's success in managing new costs. The original estimate to move to Monthly Billing proposed with the 2013 Rebasing Application was \$302,000, which included postage, consumables like paper and envelopes as well as incremental FTE's. Bluewater introduced Monthly Billing in 2017 with no incremental FTE's and has managed the cost of postage and consumables through an aggressive program of promoting e-billing. Accordingly, the incremental cost of Monthly Billing over what is built into rates (with inflation) was \$140,000 in 2017 and that gap in funding is expected to be reduced to \$100,000 due to increased uptake in e-billing. In both cases, a material savings in costs when compared to the original estimated incremental cost of \$302,000.

The quest for savings is not limited to OM&A savings, but Bluewater approaches Capital savings with a similar goal to always strive for efficiencies. One clear example can be seen with Bluewater's management of SAP for its enterprise software system. The last time Bluewater undertook a substantial investment in SAP was 2010 and 2012; those two projects involved an investment of more than \$3 million in external consultants and a further \$1 million of internal labour. Since 2012, Bluewater has strategically chosen to forego any further comprehensive upgrades to SAP, which would otherwise have taken place periodically (every 4 - 6 years), in favour of an approach to focus on regular business improvement projects each year. In order to accomplish that change in philosophy, Bluewater brought IT expertise in-house, and further developed its project management capabilities, in order to accomplish regular upgrades that respond to



business needs utilizing internal resources. To illustrate the success of this revised approach, between the years 2014 and 2022, Bluewater has spent \$0 on third parties to support or develop SAP. However, in that same time period, Bluewater introduced many regulatory changes, and rolled out significant and successful internally developed applications (such as TALLY, ROD and ARC) at no incremental cost. This initial success was the justification for the hiring of an additional Programmer in 2021. Bluewater estimates that instead of spending up to \$10 million in one year on a corporate ERP solution in today's dollars, business driven projects can be spread over multiple years at nearly half the cost.

#### **4.1.9 Business Environment Changes**

Over the last ten years since Bluewater's last rebasing application there have been numerous business environment changes impacting Bluewater's operating expenses, mainly as a result of Regulatory and Government changes. Below is a list of some of the more recent impactful changes that Bluewater has successfully navigated through, and implemented in a timely and cost efficient manner:

- Implementation of Monthly billing for all customers
- Mandatory interval meters for GS>50kW customers
- Complete re-vamp of the Customer Service Rules within the DSC
- Implementation of Ontario Rebate for Electricity Consumers ("OREC"), and transitioned to Ontario Electricity Rebate ("OER")
- Implementation of the Customer Choice Initiative allowing RPP customers to choose between Time-of-Use ("TOU") pricing and Tiered pricing
- Net Metering
- Distributed Energy Resources Connections Review
- Cyber Security Framework (underway)
- *Supporting Broadband and Infrastructure Expansion Act, 2021 (underway)*

Upcoming regulatory and industry changes include the following items:

- Green Button

- Reliability and Power Quality Review
- Adoption of Electric Vehicles, and potential electrification of public transit
- Distributed Energy Resources
- Dynamic Pricing Pilot for non-RPP Class B Consumers
- Implementation of Ultra-Low Overnight TOU Price plan
- Market Renewal, with anticipated impacts on settlement

Bluewater has been successful at implementing all initiatives on time, and Bluewater acknowledges that constant regulatory and industry changes are required to continue to improve the electrical industry province wide.

## **4.2 OM&A Summary and Cost Driver Tables**

Bluewater's OM&A plan as outlined within this Exhibit contains thorough quantitative and qualitative analysis of the proposed OM&A spending for the 2023 Test Year, as well as details related to the material variances identified through the historical period back to the 2013 OEB Approved levels. The OEB filing guidelines require the presentation of numerous quantitative analyses and the following sections contain a summary of the relevant OM&A tabs completed for the Chapter 2 Appendix.

### **4.2.1 Summary of Recoverable OM&A Expenses (Appendix 2-JA)**

Presented in **Table 6** below is an excerpt from Appendix 2-JA, and provides the OM&A expenses by the five OEB groupings for each year from 2013 OEB Approved levels through to 2023 Test Year. It should be noted that tab Appendix 2-JA contained pre-populated data from the OEB, however this data did not reflect revisions made to the RRR data in April 2022 for the years 2017-2020. Thus, Bluewater updated the data in OEB Appendix 2-JA to reflect the changes that are currently reflected in the OEB's RRR data. Furthermore, Bluewater inserted a column to represent 2014 data, and corrected reference errors in T18-W18.

**Table 6: OEB Chapter 2 Appendix 2-JA**

1

2

	Last Rebasing Year 2013 OEB Approved	Last Rebasing Year 2013 Actuals	Variance 2013 OEB Approved - 2013 Actuals	2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals
Operations	\$ 3,494,496	\$ 3,564,379	-\$ 69,883	\$ 3,619,465	\$ 3,791,562	\$ 3,833,861	\$ 3,616,749
Maintenance	\$ 136,331	\$ 132,434	\$ 3,897	\$ 98,269	\$ 180,125	\$ 163,255	\$ 496,689
Billing and Collecting	\$ 1,737,463	\$ 1,997,175	-\$ 259,712	\$ 2,006,892	\$ 2,055,458	\$ 2,601,284	\$ 1,978,682
Community Relations	\$ 245,981	\$ 264,756	-\$ 18,775	\$ 228,806	\$ 257,544	\$ 330,038	\$ 370,674
Administrative and General	\$ 6,663,289	\$ 6,351,918	\$ 311,370	\$ 5,828,696	\$ 5,957,955	\$ 6,611,009	\$ 7,130,923
Total OM&A Expenses	\$ 12,277,560	\$ 12,310,662	-\$ 33,101	\$ 11,782,127	\$ 12,242,644	\$ 13,539,447	\$ 13,593,717
Adjustments for Total non-recoverable items <sup>3</sup>							
Total Recoverable OM&A Expenses	\$ 12,277,560	\$ 12,310,662	-\$ 33,101	\$ 11,782,127	\$ 12,242,644	\$ 13,539,447	\$ 13,593,717
Variance from previous year				-\$ 495,433	-\$ 68,017	\$ 1,296,803	\$ 54,270
-4%				-1%	11%	0%	
Percent Change: Test year vs. Most Current Actual							
Simple average of % variance for all years							
Compound Annual Growth Rate for all years							
Compound Growth Rate (2021 vs. 2013 Actuals)							

3

4

	2018 Actuals	2019 Actuals	2020 Actuals	2021 Actuals	2022 Bridge Year	Variance 2022 Bridge vs. 2021 Actuals	2023 Test Year	Variance 2023 Test vs. 2022 Bridge
Operations	\$ 4,145,464	\$ 3,657,458	\$ 3,736,730	\$ 3,520,216	\$ 4,479,433	\$ 959,217	\$ 4,936,718	\$ 457,285
Maintenance	\$ 475,522	\$ 494,282	\$ 400,271	\$ 1,082,632	\$ 1,294,093	\$ 211,461	\$ 1,453,769	\$ 159,676
Billing and Collecting	\$ 1,858,241	\$ 1,890,446	\$ 1,788,955	\$ 2,121,802	\$ 1,933,180	-\$ 188,622	\$ 2,013,816	\$ 80,636
Community Relations	\$ 456,175	\$ 385,093	\$ 360,258	\$ 171,438	\$ 142,483	-\$ 28,955	\$ 176,527	\$ 34,044
Administrative and General	\$ 6,950,419	\$ 6,988,148	\$ 6,641,926	\$ 6,296,415	\$ 6,591,705	\$ 295,290	\$ 7,183,003	\$ 591,298
Total OM&A Expenses	\$ 13,885,821	\$ 13,415,427	\$ 12,928,139	\$ 13,192,502	\$ 14,440,894	\$ 1,248,392	\$ 15,763,833	\$ 1,322,939
Adjustments for Total non-recoverable items <sup>3</sup>								
Total Recoverable OM&A Expenses	\$ 13,885,821	\$ 13,415,427	\$ 12,928,139	\$ 13,192,502	\$ 14,440,894	\$ 1,248,392	\$ 15,763,833	\$ 1,322,939
Variance from previous year	\$ 292,104	-\$ 470,394	-\$ 487,287	\$ 264,363	\$ 1,248,392		\$ 1,322,939	
Percent change (year over year)	2%	-3%	-4%	2%	9%		9%	
Percent Change: Test year vs. Most Current Actual							19.49%	
Simple average of % variance for all years							2.92%	
Compound Annual Growth Rate for all years								2.5%
Compound Growth Rate (2021 vs. 2013 Actuals)							0.9%	

As indicated in the table above, the compound growth rate for 2013 to 2021 is 0.9%, which is less than the OEB approved IRM increases for Bluewater (OEB approved inflationary increases less productivity offsets) which equated to an annual compound growth rate of 1.4%. However as noted in Section 4.1.7, Bluewater's expenses were low in 2020-2021 as a result of COVID and the OLC Project. For the years 2022 and 2023, Bluewater has struggled against inflation rates that are significantly higher than previously experienced. As of July 2022, the Canadian Consumer Price Index rose Ontario's increased 7.6%<sup>5</sup> over the year before, which is a significant contributing factor to the higher than usual increases in Bluewater's forecasted OM&A expenses. Overall Bluewater notes that the 10-year compound annual growth rate of its operating expenses is 2.5%.

#### 4.2.2 Recoverable OM&A Cost Drivers (Appendix 2-JB)

Presented in **Table 7** is the annual variance analysis of the material Cost Drivers impacting OM&A over the ten-year period from 2013 OEB Approved to 2023 Test Year. There are eighteen Cost Drivers identified

<sup>5</sup> [The Daily — Consumer Price Index, July 2022 \(statcan.gc.ca\)](https://www150.statcan.gc.ca/n1/pub/62-022-x/2022001/article/00001-eng.htm)

1 that contain a material variance in at least one of the years in this ten-year period. The remaining variance  
2 outside of the main cost drivers in each year is allocated to “Other” and, where the amount in “Other” is  
3 material, the qualitative analysis provides a list of the non-material variances that explain the majority of  
4 the variance.

5  
6 The first column in **Table 7** contains the variance from 2013 OEB Approved of \$12,277,560 to 2013 Actual  
7 of \$12,310,662. In its 2013 Rebasing Application, Bluewater reached a settlement with an envelope  
8 reduction of \$900,000 to OM&A that was approved by the OEB. The only OM&A item specifically  
9 addressed in the settlement to be reduced was the \$302,000 in projected incremental cost associated  
10 with the move to monthly billing. For the purposes of this analysis, we have applied a blanket reduction  
11 of 4.6% to all OEB Accounts, representing the remaining \$598,000 of the envelope reduction divided by  
12 all cost accounts.

**Table 7: OEB Appendix 2-JB OM&A Cost Drivers**

OM&A	Last Rebasing Year (2013 Actuals)	2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals	2018 Actuals
<i>Reporting Basis</i>	MIFRS	MIFRS	MIFRS	MIFRS	MIFRS	MIFRS
<b>Opening Balance<sup>2</sup></b>	\$ 12,277,560	\$ 12,310,662	\$ 11,782,127	\$ 12,242,644	\$ 13,539,447	\$ 13,593,717
Changes in Compensation	\$46,900	\$239,000	\$545,500	\$320,400	\$300,700	\$341,300
Net change in FTE's	\$29,300	\$76,200	\$227,400	\$154,200	\$327,400	\$82,100
Burden & Benefits	(\$97,100)	(\$75,900)	\$55,800	\$103,600	\$119,000	\$95,800
Affiliate Labour	(\$149,700)	(\$169,300)	(\$156,800)	(\$37,300)	(\$50,800)	(\$58,200)
Billable work (Labour & Benefits)	\$28,300	(\$102,300)	\$60,200	\$6,300	(\$66,100)	(\$44,600)
Capital work (Labour & Benefits)	(\$191,800)	(\$153,500)	(\$412,200)	(\$174,800)	(\$158,500)	(\$243,800)
Employee Future Benefits	\$139,600	(\$428,200)	\$90,300	\$9,700	\$82,000	\$32,200
Bad Debt	\$131,900	\$26,600	\$10,400	\$594,300	(\$717,200)	(\$144,800)
Vehicle costs Capitalized or Billed	\$29,600	(\$9,900)	(\$111,700)	(\$18,300)	(\$92,200)	\$1,100
Vehicle costs	(\$15,700)	\$37,300	\$35,300	\$29,900	\$53,700	\$21,300
Postage	\$10,600	\$22,900	\$3,600	(\$7,300)	\$113,800	(\$14,700)
Vegetation Management	(\$17,000)	(\$60,200)	\$81,400	\$99,500	\$31,400	(\$46,800)
Legal Costs	\$34,900	\$149,800	(\$179,300)	\$36,700	(\$57,300)	\$1,100
COVID 19						
Advertising	\$15,100	(\$2,100)	\$8,400	\$152,700	(\$161,900)	\$6,600
Technology & Security	\$26,700	(\$55,200)	\$7,600	\$7,400	\$157,600	\$74,200
Inventory & Stores	\$2,600	\$5,400	(\$300)	(\$60,400)	\$130,500	(\$64,200)
Rate Application Costs	\$0	(\$5,600)	(\$2,000)	\$0	(\$44,100)	(\$31,500)
Other Miscellaneous	\$8,901	(\$23,534)	\$196,917	\$80,202	\$86,270	\$285,004
<b>Closing Balance<sup>2</sup></b>	\$ 12,310,662	\$ 11,782,127	\$ 12,242,644	\$ 13,539,447	\$ 13,593,717	\$ 13,885,821

OM&A	2019 Actuals	2020 Actuals	2021 Actuals	2022 Bridge Year	2023 Test Year
<i>Reporting Basis</i>	MIFRS	MIFRS	MIFRS	MIFRS	MIFRS
<b>Opening Balance<sup>2</sup></b>	\$ 13,885,821	\$ 13,415,427	\$ 12,928,139	\$ 13,192,502	\$ 14,440,894
Changes in Compensation	\$358,300	\$200,000	\$93,400	\$328,800	\$379,100
Net change in FTE's	\$156,900	(\$3,400)	\$40,900	\$260,500	\$282,900
Burden & Benefits	\$89,600	\$98,200	\$93,100	\$174,200	\$185,400
Affiliate Labour	(\$86,100)	\$13,500	\$72,100	\$145,500	(\$210,100)
Billable work (Labour & Benefits)	(\$209,900)	(\$152,700)	(\$194,100)	\$296,200	\$135,100
Capital work (Labour & Benefits)	(\$1,097,300)	(\$116,900)	(\$22,300)	(\$300,900)	(\$10,600)
Employee Future Benefits	\$15,100	(\$140,500)	(\$16,900)	\$21,100	(\$71,950)
Bad Debt	\$44,600	(\$47,500)	\$238,900	(\$158,100)	\$6,400
Vehicle costs Capitalized or Billed	(\$129,900)	(\$13,700)	\$7,500	\$119,800	\$29,200
Vehicle costs	(\$8,700)	(\$33,700)	\$27,500	\$92,900	\$47,700
Postage	\$1,500	(\$14,700)	(\$3,200)	(\$400)	\$26,500
Vegetation Management	(\$39,500)	(\$59,700)	\$63,000	\$160,100	\$61,400
Legal Costs	\$5,000	\$13,400	\$35,500	(\$54,000)	\$5,200
COVID 19		(\$194,200)	\$57,800	\$54,200	\$57,600
Advertising	\$400	(\$10,300)	\$15,100	(\$9,300)	\$400
Technology & Security	\$56,000	\$121,600	(\$1,500)	\$16,800	\$102,900
Inventory & Stores	\$44,400	(\$56,200)	(\$33,500)	\$59,900	\$8,100
Rate Application Costs	\$0	\$0	\$0	\$0	\$106,300
Other Miscellaneous	\$329,206	(\$90,488)	(\$208,937)	\$41,092	\$181,389
<b>Closing Balance<sup>2</sup></b>	\$ 13,415,427	\$ 12,928,139	\$ 13,192,502	\$ 14,440,894	\$ 15,763,833

#### 4.2.3 OM&A Programs Table (Appendix 2-JC)

Bluewater presents **Table 8** below which is an outline of Bluewater's OM&A costs by Program. Bluewater has used the groupings of Customer Focus, Operations & Maintenance, Administrative & General and Public & Regulatory Responsiveness in order to categorize the Programs. A variance analysis is contained in Section 4.3.2 - Variance Analysis on OM&A Programs (OEB Appendix 2-JC).

**Table 8: OEB Appendix 2-JC OM&A Programs**

Programs	Last Rebasing Year (2013 OEB- Approved)	Last Rebasing Year (2013 Actuals)	2014 Actuals	2015 Actuals
<b>Reporting Basis</b>				
<b>Customer Focus</b>				
Bad Debt	180,915	312,822	339,381	349,744
Billing & Collecting	1,564,927	1,687,513	1,665,525	1,718,133
Community Relations & Safety	255,542	282,267	242,343	277,053
LEAP	-	24,815	24,848	24,848
<b>Sub-Total</b>	<b>2,001,384</b>	<b>2,307,417</b>	<b>2,272,096</b>	<b>2,369,779</b>
<b>Operations &amp; Maintenance</b>				
Engineering	429,377	518,161	471,059	500,084
Load Dispatching	331,052	338,289	353,370	387,473
Metering	416,291	391,372	394,026	400,116
Maintenance of Gen Plant & Vehicles	348,663	503,244	470,816	464,504
Vegetation Management	189,296	172,295	112,107	193,463
Building Maintenance	166,023	160,820	243,645	257,497
Operations O&M	35,469	45,859	56,953	345,401
Stations O&M	42,639	47,029	40,782	100,226
Lines O&M	1,899,932	1,772,484	1,939,800	1,643,408
<b>Sub-Total</b>	<b>3,858,742</b>	<b>3,949,554</b>	<b>4,082,557</b>	<b>4,292,171</b>
<b>Administration &amp; General</b>				
Administration	3,140,051	2,854,884	2,673,968	2,960,994
Audit, Finance, Legal and Consulting	171,616	220,684	355,803	160,296
Communication	55,297	49,404	51,952	59,122
Environmental	64,533	900	1,934	24,389
Insurance	141,451	146,286	154,784	133,208
Software/Hardware Mtce	448,444	471,246	415,101	402,854
Employee Future Benefits	552,017	681,646	253,422	343,702
Benefits	1,486,109	1,284,979	1,200,355	1,171,372
<b>Sub-Total</b>	<b>6,059,518</b>	<b>5,710,028</b>	<b>5,107,318</b>	<b>5,255,937</b>
<b>Public &amp; Regulatory Responsiveness</b>				
Regulatory	357,915	343,663	320,157	324,758
<b>Sub-Total</b>	<b>357,915</b>	<b>343,663</b>	<b>320,157</b>	<b>324,758</b>
<b>Miscellaneous</b>				
<b>Total</b>	<b>12,277,560</b>	<b>12,310,662</b>	<b>11,782,127</b>	<b>12,242,644</b>



	2016 Actuals	2017 Actuals	2018 Actuals	2019 Actuals
<b>Programs</b>				
<b>Reporting Basis</b>				
<b>Customer Focus</b>				
<b>Bad Debt</b>	944,091	226,924	82,109	126,671
<b>Billing &amp; Collecting</b>	1,677,009	1,769,185	1,788,753	1,775,504
<b>Community Relations &amp; Safety</b>	499,431	383,294	475,427	404,708
<b>LEAP</b>	24,848	24,848	24,848	24,848
<b>Sub-Total</b>	3,145,380	2,404,250	2,371,136	2,331,731
<b>Operations &amp; Maintenance</b>				
<b>Engineering</b>	527,558	567,323	618,461	583,443
<b>Load Dispatching</b>	386,768	414,026	433,496	374,895
<b>Metering</b>	487,620	472,849	520,867	482,991
<b>Maintenance of Gen Plant &amp; Vehicles</b>	432,300	475,275	493,274	405,024
<b>Vegetation Management</b>	292,961	324,348	277,552	238,016
<b>Building Maintenance</b>	222,559	259,743	255,088	266,503
<b>Operations O&amp;M</b>	285,902	422,693	352,852	386,129
<b>Stations O&amp;M</b>	87,339	66,438	102,421	190,254
<b>Lines O&amp;M</b>	1,442,117	1,450,462	1,830,449	1,550,566
<b>Sub-Total</b>	4,165,124	4,453,157	4,884,460	4,477,821
<b>Administration &amp; General</b>				
<b>Administration</b>	3,410,069	3,774,537	3,568,689	3,461,327
<b>Audit, Finance, Legal and Consulting</b>	171,728	132,491	131,960	140,796
<b>Communication</b>	72,940	105,686	159,602	203,161
<b>Environmental</b>	64,006	23,231	15,435	30,636
<b>Insurance</b>	168,113	166,827	188,037	189,298
<b>Software/Hardware Mtce</b>	376,645	461,045	452,245	526,308
<b>Employee Future Benefits</b>	353,420	435,404	467,625	482,676
<b>Benefits</b>	1,237,513	1,312,906	1,348,741	1,206,499
<b>Sub-Total</b>	5,854,435	6,412,127	6,332,334	6,240,701
<b>Public &amp; Regulatory Responsiveness</b>				
<b>Regulatory</b>	374,508	324,183	297,890	365,174
<b>Sub-Total</b>	374,508	324,183	297,890	365,174
<b>Miscellaneous</b>				
<b>Total</b>	<b>13,539,447</b>	<b>13,593,717</b>	<b>13,885,821</b>	<b>13,415,427</b>

	2020 Actuals	2021 Actuals	2022 Bridge Year	2023 Test Year
<b>Programs</b>				
<b>Reporting Basis</b>				
<b>Customer Focus</b>				
<b>Bad Debt</b>	79,216	318,109	160,000	166,400
<b>Billing &amp; Collecting</b>	1,739,104	1,792,466	1,785,440	1,855,752
<b>Community Relations &amp; Safety</b>	372,253	191,831	154,483	188,727
<b>LEAP</b>	24,848	66,280	24,848	30,000
<b>Sub-Total</b>	2,215,422	2,368,686	2,124,771	2,240,879
<b>Operations &amp; Maintenance</b>				
<b>Engineering</b>	588,877	696,430	729,319	748,870
<b>Load Dispatching</b>	392,945	491,586	579,562	569,839
<b>Metering</b>	488,147	574,110	598,175	609,274
<b>Maintenance of Gen Plant &amp; Vehicles</b>	356,963	311,667	404,363	415,445
<b>Vegetation Management</b>	178,353	241,330	401,427	462,820
<b>Building Maintenance</b>	289,020	215,409	219,077	228,469
<b>Operations O&amp;M</b>	357,550	720,781	789,086	838,201
<b>Stations O&amp;M</b>	135,973	145,157	191,573	220,104
<b>Lines O&amp;M</b>	1,656,677	1,417,364	2,076,346	2,520,980
<b>Sub-Total</b>	4,444,504	4,813,834	5,988,928	6,614,002
<b>Administration &amp; General</b>				
<b>Administration</b>	3,122,273	3,053,598	3,144,034	3,270,008
<b>Audit, Finance, Legal and Consulting</b>	186,479	199,622	175,411	182,425
<b>Communication</b>	206,860	199,195	190,618	203,985
<b>Environmental</b>	15,908	-	40,000	41,600
<b>Insurance</b>	198,399	199,842	219,800	228,584
<b>Software/Hardware Mtce</b>	649,577	672,103	617,531	695,272
<b>Employee Future Benefits</b>	342,197	325,259	346,340	274,390
<b>Benefits</b>	1,224,461	982,609	1,135,611	1,346,712
<b>Sub-Total</b>	5,946,153	5,632,228	5,869,345	6,242,976
<b>Public &amp; Regulatory Responsiveness</b>				
<b>Regulatory</b>	322,060	377,755	457,850	665,976
<b>Sub-Total</b>	322,060	377,755	457,850	665,976
<b>Miscellaneous</b>				
<b>Total</b>	<b>12,928,139</b>	<b>13,192,502</b>	<b>14,440,894</b>	<b>15,763,833</b>

The Programs have been established by using the OEB USoA accounts along with the segregation of some accounts into more specific program level categories. The accounts used for each program are identified in **Table 9** below.

**Table 9: OEB Accounts for OM&A Programs**

<b>Admin &amp; General</b>	<b>OEB Accounts</b>
Administration	5605, 5610, 5615, 5620, 5630, 5665
Audit, Finance, Legal and Consulting	5665, 5680
Communication	5665
Environmental	5085
Insurance	5635
Software/Hardware Mtce	5085, 5310, 5665
Employee Future Benefits	5646
Benefits	5645
<b>Customer Focus</b>	
Bad Debt	5335
Billing & Collecting	5310, 5315, 5320, 5325, 5330, 5665
Community Relations & Safety	5410, 5415, 5420, 5415, 5660, 5665
LEAP	6205
<b>Operations &amp; Mtce</b>	
Engineering	5005
Load Dispatching	5010, 5085
Metering	5065, 5185
Maintenance of Gen Plant & Vehicles	5085, 5645, 5665
Vegetation Management	5025, 5135
Building Maintenance	5675
Operations O&M	5012, 5035, 5060, 5070, 5160, 5665
Stations O&M	5016, 5017, 5114
Lines O&M	5020, 5025, 5040, 5045, 5095, 5120, 5125, 5130, 5145, 5150, 5155
<b>Public &amp; Regulatory Responsiveness</b>	
Regulatory	5655

#### **4.2.4 Recoverable OM&A Cost per Customer and FTE (Appendix 2-L)**

Presented in **Table 10** is the outline of Appendix 2-L which is a summary of OM&A Cost per Customer, and OM&A Cost per FTE. The FTE numbers agree to those presented in **Table 15**, which is Appendix 2-K. The only caution we note is that the 2013 OEB Approved was based on a settlement for which there were no specific reductions to FTE count. While Appendix 2-K contains no FTE numbers for 2013 OEB Approved because there was no settlement on FTE's, for the purposes of this analysis we have used 2013 Actual for

1 FTE count in determining Cost per FTE. For the purposes of Cost per customer, the number of customers  
2 presented is based on the annual average for each rate class of metered customers and corresponds with  
3 the Load forecast presented in Exhibit 3.

4  
5 In 2023, OM&A cost per customer is forecast to be \$423, which compares to the value of \$340 for the  
6 2013 OEB Approved. This increase of 25% in the cost per customer can be compared to the overall  
7 increase of 28% demonstrated in **Table 2** which is reflective of greater customer growth relative to the  
8 increase in OM&A.

9  
10 In 2023, the OM&A cost per FTE is forecast to be \$147,496 as compared to the value of \$131,118 for the  
11 2013 Actual. This represents an increase of 12% over a 10-year period.

**Table 10: OEB Chapter 2 Appendix 2-L**

	Last Rebasing Year 2013 - OEB Approved	Last Rebasing Year 2013 - Actual	2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals
<b>Reporting Basis</b>	<b>MIFRS</b>	<b>MIFRS</b>	<b>MIFRS</b>	<b>MIFRS</b>	<b>MIFRS</b>	<b>MIFRS</b>
<b>OM&amp;A Costs</b>						
O&M	\$ 3,630,827	\$ 3,696,813	\$ 3,717,735	\$ 3,971,687	\$ 3,997,115	\$ 4,113,438
Admin Expenses <sup>6</sup>	\$ 8,646,733	\$ 8,613,849	\$ 8,064,393	\$ 8,270,957	\$ 9,542,331	\$ 9,480,279
<b>Total Recoverable OM&amp;A from Appendix 2-JB<sup>5</sup></b>	\$ 12,277,560	\$ 12,310,662	\$ 11,782,127	\$ 12,242,644	\$ 13,539,447	\$ 13,593,717
<b>Number of Customers<sup>2,4</sup></b>	36,119	35,917	36,042	36,166	36,297	36,480
<b>Number of FTEs<sup>3,4</sup></b>		93.9	86.1	88.8	92.3	98.3
<b>Customers/FTEs</b>		383	419	407	393	371
<b>OM&amp;A cost per customer</b>						
O&M per customer	\$101	\$103	\$103	\$110	\$110	\$113
Admin per customer	\$239	\$240	\$224	\$229	\$263	\$260
<b>Total OM&amp;A per customer</b>	\$340	\$343	\$327	\$339	\$373	\$373
<b>OM&amp;A cost per FTE</b>						
O&M per FTE		\$39,374	\$43,203	\$44,727	\$43,315	\$41,861
Admin per FTE		\$91,744	\$93,716	\$93,143	\$103,406	\$96,476
<b>Total OM&amp;A per FTE</b>		\$131,118	\$136,919	\$137,870	\$146,721	\$138,337

	2018 Actuals	2019 Actuals	2020 Actuals	2021 Actuals	2022 Bridge Year	2023 Test Year
<b>Reporting Basis</b>	<b>MIFRS</b>	<b>MIFRS</b>	<b>MIFRS</b>	<b>MIFRS</b>	<b>MIFRS</b>	<b>MIFRS</b>
<b>OM&amp;A Costs</b>						
O&M	\$ 4,620,986	\$ 4,151,740	\$ 4,137,001	\$ 4,602,848	\$ 5,773,526	\$ 6,390,487
Admin Expenses <sup>6</sup>	\$ 9,264,834	\$ 9,263,687	\$ 8,791,138	\$ 8,589,655	\$ 8,667,368	\$ 9,373,346
<b>Total Recoverable OM&amp;A from Appendix 2-JB<sup>5</sup></b>	\$ 13,885,821	\$ 13,415,427	\$ 12,928,139	\$ 13,192,502	\$ 14,440,894	\$ 15,763,833
<b>Number of Customers<sup>2,4</sup></b>	36,628	36,734	36,863	36,957	37,112	37,242
<b>Number of FTEs<sup>3,4</sup></b>	99.6	97.1	91.5	92.2	104.5	106.9
<b>Customers/FTEs</b>	368	378	403	401	355	348
<b>OM&amp;A cost per customer</b>						
O&M per customer	\$126	\$113	\$112	\$125	\$156	\$172
Admin per customer	\$253	\$252	\$238	\$232	\$234	\$252
<b>Total OM&amp;A per customer</b>	\$379	\$365	\$351	\$357	\$389	\$423
<b>OM&amp;A cost per FTE</b>						
O&M per FTE	\$46,408	\$42,769	\$45,207	\$49,934	\$55,259	\$59,793
Admin per FTE	\$93,045	\$95,430	\$96,066	\$93,185	\$82,956	\$87,703
<b>Total OM&amp;A per FTE</b>	\$139,452	\$138,199	\$141,273	\$143,119	\$138,215	\$147,496

#### 4.2.5 Capitalized OM&A

A discussion of Bluewater's capitalized OM&A is presented in Exhibit 2, Section 2.9.3 Overhead Costs which also includes OEB Appendix 2-D 'Overhead Expense'. This appendix outlines the OM&A before capitalization, the amounts capitalized (labour, benefits, vehicle), and the resulting percentage of capitalized OM&A. It is also reproduced in the table below.

**Table 11: OEB Appendix 2-D 'Overhead Expense'**

<b>OM&amp;A Before Capitalization</b>	<b>2013 OEB Approved</b>	<b>2013 Historical Year</b>	<b>2014 Historical Year</b>	<b>2015 Historical Year</b>
Operations Expense	\$ 4,673,625	\$ 4,851,852	\$ 4,991,531	\$ 5,552,569
Maintenance Expense	\$ 136,331	\$ 132,434	\$ 98,269	\$ 180,125
Billing & Collections Expense	\$ 1,859,429	\$ 2,032,299	\$ 2,008,835	\$ 2,118,001
Community Relations Expense	\$ 245,981	\$ 265,913	\$ 228,806	\$ 258,257
Administration & General	\$ 7,165,191	\$ 6,968,549	\$ 6,512,092	\$ 6,733,889
LEAP	\$ -	\$ 24,815	\$ 24,848	\$ 24,848
<b>Total OM&amp;A Before Capitalization (B)</b>	<b>\$ 14,080,558</b>	<b>\$ 14,275,862</b>	<b>\$ 13,864,380</b>	<b>\$ 14,867,689</b>
<b>Capitalized OM&amp;A</b>	<b>2013 OEB Approved</b>	<b>2013 Historical Year</b>	<b>2014 Historical Year</b>	<b>2015 Historical Year</b>
Capitalized Directly attributed labour (including benefits)	\$ 1,583,835	\$ 1,775,605	\$ 1,929,075	\$ 2,341,235
Capitalized Vehicle Costs	\$ 219,163	\$ 189,595	\$ 153,178	\$ 283,810
<b>Total Capitalized OM&amp;A (A)</b>	<b>\$ 1,802,997</b>	<b>\$ 1,965,200</b>	<b>\$ 2,082,253</b>	<b>\$ 2,625,044</b>
<b>% of Capitalized OM&amp;A (=A/B)</b>	<b>13%</b>	<b>14%</b>	<b>15%</b>	<b>18%</b>

<b>OM&amp;A Before Capitalization</b>	<b>2016 Historical Year</b>	<b>2017 Historical Year</b>	<b>2018 Historical Year</b>	<b>2019 Historical Year</b>
Operations Expense	\$ 5,777,384	\$ 5,826,448	\$ 6,478,363	\$ 6,837,712
Maintenance Expense	\$ 163,255	\$ 496,689	\$ 475,522	\$ 494,282
Billing & Collections Expense	\$ 2,642,769	\$ 2,011,202	\$ 1,886,245	\$ 1,927,257
Community Relations Expense	\$ 330,038	\$ 370,674	\$ 459,107	\$ 387,827
Administration & General	\$ 7,432,610	\$ 7,934,562	\$ 7,853,254	\$ 8,258,504
LEAP	\$ 24,848	\$ 24,848	\$ 24,848	\$ 24,848
<b>Total OM&amp;A Before Capitalization (B)</b>	<b>\$ 16,370,905</b>	<b>\$ 16,664,423</b>	<b>\$ 17,177,339</b>	<b>\$ 17,930,430</b>
<b>Capitalized OM&amp;A</b>	<b>2016 Historical Year</b>	<b>2017 Historical Year</b>	<b>2018 Historical Year</b>	<b>2019 Historical Year</b>
Capitalized Directly attributed labour (including benefits)	\$ 2,516,047	\$ 2,674,519	\$ 2,918,323	\$ 4,015,671
Capitalized Vehicle Costs	\$ 315,412	\$ 396,187	\$ 373,195	\$ 499,333
<b>Total Capitalized OM&amp;A (A)</b>	<b>\$ 2,831,458</b>	<b>\$ 3,070,706</b>	<b>\$ 3,291,518</b>	<b>\$ 4,515,003</b>
<b>% of Capitalized OM&amp;A (=A/B)</b>	<b>17%</b>	<b>18%</b>	<b>19%</b>	<b>25%</b>

1  
2  
3

<b>OM&amp;A Before Capitalization</b>	<b>2020 Historical Year</b>	<b>2021 Historical Year</b>	<b>2022 Bridge Year</b>	<b>2023 Test Year</b>
Operations Expense	\$ 6,688,685	\$ 6,512,023	\$ 7,790,914	\$ 8,267,844
Maintenance Expense	\$ 400,271	\$ 1,082,632	\$ 1,294,093	\$ 1,453,769
Billing & Collections Expense	\$ 1,830,896	\$ 2,144,915	\$ 1,956,293	\$ 2,036,929
Community Relations Expense	\$ 360,960	\$ 171,438	\$ 142,483	\$ 176,527
Administration & General	\$ 8,171,379	\$ 7,794,531	\$ 8,142,063	\$ 8,719,764
LEAP	\$ 24,848	\$ 66,280	\$ 24,848	\$ 30,000
<b>Total OM&amp;A Before Capitalization (B)</b>	<b>\$ 17,477,039</b>	<b>\$ 17,771,818</b>	<b>\$ 19,350,694</b>	<b>\$ 20,684,833</b>
<b>Capitalized OM&amp;A</b>	<b>2020 Historical Year</b>	<b>2021 Historical Year</b>	<b>2022 Bridge Year</b>	<b>2023 Test Year</b>
Capitalized Directly attributed labour (including benefits)	\$ 4,132,586	\$ 4,154,926	\$ 4,455,828	\$ 4,466,412
Capitalized Vehicle Costs	\$ 416,315	\$ 424,390	\$ 453,972	\$ 454,588
<b>Total Capitalized OM&amp;A (A)</b>	<b>\$ 4,548,900</b>	<b>\$ 4,579,316</b>	<b>\$ 4,909,800</b>	<b>\$ 4,921,000</b>
<b>% of Capitalized OM&amp;A (=A/B)</b>	<b>26%</b>	<b>26%</b>	<b>25%</b>	<b>24%</b>

There has been no change in the methodology of capitalizing OM&A since the 2013 Rebasing Application, however, Bluewater has improved the accuracy of its capitalization facilitated through a customized timesheet system developed in-house by the name of TALLY.

Capitalized OM&A in the 2023 Test Year is \$341,684 higher than the 2021 actuals due to increased capital spending and a continuing focus of internal resources to complete planned capital projects.

The resulting 24% of OM&A capitalized in 2023 is in line with the percentages since 2019. The increase from 2018 to 2019 is composed of labour and benefits in the amount of \$1,097,348 attributable to:

- an increase in Operations Capital in the amount of \$474,759 due, primarily, to the hiring of 5 Powerline Technicians in 2018
- an increase in Operations Capitalized Overtime in the amount of \$199,480, an increase in IT Capital in the amount of \$220,565 with the addition of one FTE added related to hardware infrastructure as well as increased demands on IT related to Cyber Security



### 4.3 OM&A Variance Analysis

In accordance with the filing guidelines, Bluewater has detailed below two distinct variance analyses. The first is a variance analysis on the Cost Drivers in support of OEB Appendix 2-JB, and the second is a variance analysis on the OM&A Programs Table in support of OEB Appendix 2-JC.

#### 4.3.1 Variance Analysis on Cost Drivers (OEB Appendix 2-JB)

Each cost driver is discussed separately below, with a table providing the variance for each year from 2013 to 2023, followed by an explanation of the variance. It should be noted that, for ease of presentation, the values presented in OEB Appendix 2-JB, and in the variance analysis below, have been rounded to the nearest hundred dollars.

The 2013 opening balance of \$12,277,560 is the 2013 OEB Approved amount, as per the 2013 Settlement Agreement. The overall variance from 2013 OEB Approved to 2013 Actuals is a variance of only \$23,961 (with the 2013 Actual amount being \$12,310,662). Despite this nominal variance at the total spending level, the first column represents the variance by cost driver from 2013 Approved to 2013 Actual based on the assumption noted earlier that the 2013 Settlement Agreement represented an envelope reduction to OM&A; therefore, for the purposes of this analysis the 2013 OEB Approved value represents an adjusted 2013 Applied-for, where the incremental costs associated with the move from bi-monthly to monthly billing were eliminated and each other account is reduced by 4.6% to reflect the remaining envelope reduction. The variance for all years from 2014 to 2021 are actual to actual, with 2022 and 2023 being forecast spending for the Bridge Year and Test Year.

Bluewater has identified eighteen individual cost drivers to explain the annual variances occurring during the period from 2013 to 2023. The goal of this analysis was to identify material cost drivers, with the expectation that the final cost driver of "Other" would fall below the materiality threshold. That goal was accomplished for all years other than 2015, 2018, 2019 and 2021; where the variance is greater than the materiality threshold, then the top 2 or 3 cost drivers are identified for each of those years under the heading of "Other".

Not surprisingly, the majority of the cost drivers relate to employee costs since approximately 70% of OM&A costs relate to employees. As discussed in Section 4.1.5 - Overall Cost Drivers, the growth in Payroll and Benefit costs are offset by the increase in allocations to affiliates, billable and capital work. The net growth in those employee related costs is \$1.816 million, which is less than would be expected based on the compounded rate of inflation alone. This analysis of annual variances looks at each cost driver individually, but it is critical to remember that context which speaks to Economies of Scope and efficiencies achieved in deploying our human resources.

#### 1. Changes in Compensation

OM&A	2013 Actuals	2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals	2018 Actuals
Changes in Compensation	46,900	239,000	545,500	320,400	300,700	341,300

OM&A	2019 Actuals	2020 Actuals	2021 Actuals	2022 Bridge Year	2023 Test Year
Changes in Compensation	358,300	200,000	93,400	328,800	379,100

The variance from year-to-year represents the increase in compensation in isolation from any change in FTE count. The variances from year to year includes a relatively consistent increase due to Cost-of-Living ("COL") and progressions in the range of \$275,000 being approximately 3% of wages and salary. These increases consistently represent a 2% COL increase as discussed in the HR Strategy and 0.5% in Progressions in a typical year. Therefore, the variance driven by ordinary COL and progression is expected to be approximately \$275,000 each year; accordingly, the variance analysis of Changes in Compensation will explain any variance that is different in a material amount from that expected increase of \$275,000

Accordingly, those years requiring explanation are the years 2013, 2015, 2021 and 2023:

- The year 2013 has no COL or Progression since it is a variance of 2013 Approved to 2013 Actual
- The year 2015 exceeds the expected variance by approximately \$270,000 and is related to two factors. First, a one-time bump of \$115,000 over normal COL and progressions related to a minor

reorganization in management that resulted in progression increases in compensation, together with market-based adjustments. Second, an increase in Overtime in the amount of \$155,000

- The 2021 variance represents a shortfall from the expected variance by approximately \$180,000, which was driven by a negative variance of \$183,500 in Overtime. This reduction in overtime was the result of a conscious effort by Bluewater to reduce any avoidable overtime costs by, for example, allowing scheduled service interruptions during regular hours rather than after business hours or on weekends
- The 2023 variance exceeds the expected variance by approximately \$100,000 and is driven by a \$110,000 bump in Cost of Living related to the use of a projected 4% Cost of Living increase in salaries for non-union staff compared to the more typical increase of approximately 2% for COL. Bluewater anticipates that current inflation trends will place significant pressure on wages in an already competitive labour market. The 4% COL increase may stand out in comparison to prior years, but the increase does not stand out in the current environment of high inflation and competitive labour markets

## 2. Net Changes in FTE's

OM&A	2013 Actuals	2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals	2018 Actuals
Net Changes in FTE's	29,300	76,200	227,400	154,200	327,400	82,100

OM&A	2019 Actuals	2020 Actuals	2021 Actuals	2022 Bridge Year	2023 Test Year
Net Changes in FTE's	156,900	(3,400)	40,900	260,500	282,900

The variance related to change in FTE's are both positive and negative over the past decade, but the cumulative impact is an increase due to staff additions. A detailed discussion of FTE's is found in Section 4.4.2.5. That FTE Variance Analysis identifies that there is a net reduction of 3.3 in the number of FTE's embedded in OM&A (80.5 FTE's in 2013 to 77.2 FTE's in 2023), so any growth in FTE's over the ten year period are offset by increased levels of allocation to Affiliates, Billable and Capital. In addition, we note

there is a reduction of 4.75 FTE's over the years due to retirements not replaced as detailed in Section 4.1.8 - Cost Efficiencies.

By way of brief summary for the larger positive variances, we can confirm the primary driver of the variances by year were as follows:

- 2015 variance was related to hiring a replacement with overlap of one manager that had resigned, net increase of two union positions, and two contract positions added to manage workload and for a special project
- 2017 was driven by succession planning with overlap of positions in a year that saw the turnover of six employees, as well as the hiring of three union positions, replacing one non-union position that was delayed by one-year, and two temporary contract positions
- 2021 saw a reduction in FTE due to higher than normal turnover and delays in replacements, as well as two leaves which were not backfilled during the year, all of which resulted in a savings of \$132,000
- 2022 increase of \$323,300 represents, in part, a recovery over the 2021 reduction of \$132,000 explained above. The remaining \$190,000 increase in 2022 relates to partial year addition of two non-union positions, two new union positions and the filling of two union positions vacant at the start of the year due to challenges in recruiting
- 2023 has no increase in headcount and, therefore, the increase in cost is driven by the full-year impact of positions filled in 2022, as well as succession planning to account for the risk associated with an aging workforce as discussed in the HR Strategy

### 3. Statutory Burden and Extended Benefits

OM&A	2013 Actuals	2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals	2018 Actuals
Burden & Benefits	(97,100)	(75,900)	55,800	103,600	119,000	95,800

OM&A	2019 Actuals	2020 Actuals	2021 Actuals	2022 Bridge Year	2023 Test Year
Burden & Benefits	89,600	98,200	93,100	174,200	185,400

The annual increases set out above are primarily attributable to the increases in salary due to COL and progressions, as well as net additions of staff. Each of those compensation-related variances are explained above, and the impact on statutory burden and benefits reflects those variances. The change in benefit rates are minor in comparison.

The variance in year 2022 is primarily driven by the increase in compensation as the increase in benefit rates was updated for year-to date actuals and reflects a reasonable increase of approximately 3.0% for the group of benefits over the 2021 costs.

The variance in year 2023 is a forecast of benefit costs based on expected compensation and forecast rate increase for benefits. Bluewater has forecast benefit increases in 2023 based on increases ranging from 2% to 10% over the updated rates for 2022. Given current unknowns across all markets, Bluewater believes the forecast to be reasonable.

#### 4. Allocation to Affiliates

OM&A	2013 Actuals	2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals	2018 Actuals
Allocation to Affiliates	(149,700)	(169,300)	(156,800)	(37,300)	(50,800)	(58,200)

OM&A	2019 Actuals	2020 Actuals	2021 Actuals	2022 Bridge Year	2023 Test Year
Allocation to Affiliates	(86,100)	13,500	72,100	145,500	(210,100)

The allocation of costs to affiliates is discussed in detail in Section 4.5.2 - Affiliate Transactions and, in particular, OEB Appendix 2-N. The allocations shown in Appendix 2-N include both labour, material and other costs, whereas this current variance analysis looks at allocation of labour only. The trend in allocation to affiliates is growth in the amount of labour allocated to affiliates; in fact, as set out in Section 4.1.5, the growth in allocation of labour to affiliates represents an additional \$687,200 being allocated out of Bluewater over the ten-year period from 2013 to 2023.

In looking at annual variances above, it is important to point out there are two types of costs allocated to affiliates. First, there are items that represent a consistent allocation of costs for Management Services as well as consistent allocation of costs related to Water Billing. The increase in allocation of these costs represent 25% of the growth in affiliate allocations. Second, there are costs that are driven by demand, which relate to fluctuations in demand for operational staff, primarily Powerline Technicians, that are employees of the utility shared with affiliates to perform work for third-parties through those affiliates. In the ten-year period covered by this variance analysis, the growth in allocation of these variable costs represents 75% of the growth in allocation to affiliates.

The 2022 Bridge Year represents a reduction in allocations due to what was anticipated to be declining demand from affiliates. It was forecast that 2022 would see a continuation of the decline seen in the year 2021. These reductions in demand relate to both COVID and efforts by Bluewater to manage the demand on our workforce.

The 2023 Test Year forecast anticipates a restoration of demand from third-parties to levels seen in the year 2020, combined with an expectation that workforce demands can be met with a balanced approach and assistance from third-party contractors.

#### 5. Allocation to Billable Work

OM&A	2013 Actuals	2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals	2018 Actuals
Allocation to Billable	28,300	(102,300)	60,200	6,300	(66,100)	(44,600)

OM&A	2019 Actuals	2020 Actuals	2021 Actuals	2022 Bridge Year	2023 Test Year
Allocation to Billable	(209,900)	(152,700)	(194,100)	296,200	135,100

The increases in 2019, 2020 and 2021 represent a cumulative increase of \$556,700 in allocation of cost to billable work in 2021, which is primarily related to the OLC Project discussed earlier. The years 2022 and 2023 represent a positive variance (meaning less cost is attributed to Billable Work) in the amount of

\$431,300, which partially offsets the increase in allocations to Billable Work attributable to the OLC Project.

Over the ten-year period, there is a net increase in allocation of costs to Billable Work confirmed in **Table 2** to be an increase of \$243,600. The 2023 forecast of Billable Work was based on the five-year average, so it reflects growth in the following areas:

- Increase in demand from telecommunication providers for Make-Ready Work and Locates, which has peaked with the deployment of Fibre to the Home program by Bell
- Increased frequency of large projects to relocate or bury overhead lines in proximity to facilities or to accommodate customer requests for upgrades
- Refinement to the allocation of costs to improve the capture of administrative and stockroom costs

#### 6. Allocation to Capital Assets

OM&A	2013 Actuals	2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals	2018 Actuals
Allocation to Capital	(191,800)	(153,500)	(412,200)	(174,800)	(158,500)	(243,800)

OM&A	2019 Actuals	2020 Actuals	2021 Actuals	2022 Bridge Year	2023 Test Year
Allocation to Capital	(1,097,300)	(116,900)	(22,300)	(300,900)	(10,600)

The variance analysis shows an increase each year due to the rising level of self-constructed capital projects being undertaken by Bluewater. The increases in allocation of labour are consistent with the increase in capital spending over the same time-period; the 129% increase in capital spending from 2013 Actual to 2023 Test Year is reflected in the 151% increase in capitalization of labour due to the renewed focus on self-constructed capital. The ten-year increase in Capitalization of labour shown in **Table 3** to be \$2.882 million is consistent with the growth in Capital over that same period of \$5.905 million, given that capital labour generally represents 45-50% of total Capital spending.

The large increase in 2019 is due to a significant increase in internal labour being allocated to capital projects in conjunction with a decrease in external contracting for capital projects. Over the period from 2015 to 2018, Bluewater contracted services to third-party line contractors, but terminated its relationship with the contractor starting in 2019. At the same time, Bluewater was successful in 2018 in the hiring of five Powerline Technicians in order to complete capital needs, and one professional tradesperson was added in each of Operations and IT to further efforts to move Capital work in-house.

#### 7. Employee Future Benefits (EFB)

OM&A	2013 Actuals	2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals	2018 Actuals
EFB	139,600	(428,200)	90,300	9,700	82,000	32,200

OM&A	2019 Actuals	2020 Actuals	2021 Actuals	2022 Bridge Year	2023 Test Year
EFB	15,100	(140,500)	(16,900)	21,100	(71,950)

The variances in EFB's from year to year reflects changes in FTE's, benefit programs and discount rates employed by the Actuary conducting the calculation. These variances do not include any actuarial gains or losses which are recorded in Account 7010 'Pension Actuarial Gains or Losses or Remeasurement Adjustment – Other Comprehensive Income', which is specifically excluded from ratemaking.

A full valuation was completed for the 2022 fiscal year, which included a forecast for the 2023 Test Year. Account 5646 for the 2023 Test Year OM&A captures the EFB accrual expense of \$274,390 that is included in this application for ratemaking.

#### 8. Bad Debts

OM&A	2013 Actuals	2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals	2018 Actuals
Bad Debts	131,900	26,600	10,400	594,300	(717,200)	(144,800)

OM&A	2019 Actuals	2020 Actuals	2021 Actuals	2022 Bridge Year	2023 Test Year
Bad Debts	44,600	(47,500)	238,900	(158,100)	6,400



The large positive variance in 2016 is due to the bankruptcy of a single large customer, which increased the 2016 bad debts expense by over \$800,000. The large negative variance in 2017 is due to bad debts expense returning to normal levels, as well as a reduction in the allowance for doubtful accounts recorded at the 2017 year-end. The large positive variance in 2021 is the result of one-time write offs of uncollectible balances. This included certain accounts receivable in the amount of \$142,000, as well as the write-off of \$105,000 of COVID related costs initially recorded in the OEB deferral Account 1509 in 2020. The write off in Account 1509 was based on the determination in 2021 that Bluewater did not qualify for recovery of these COVID costs. The 2022 negative variance is bad debts expense returning to more normal levels.

*9. Vehicle Costs Allocated to Capital Assets and Billable Work*

<b>OM&amp;A</b>	2013 Actuals	2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals	2018 Actuals
Vehicle - Allocated	29,600	(9,900)	(111,700)	(18,300)	(92,200)	1,100

<b>OM&amp;A</b>	2019 Actuals	2020 Actuals	2021 Actuals	2022 Bridge Year	2023 Test Year
Vehicle - Allocated	(129,900)	(13,700)	7,500	119,800	29,200

Vehicle costs are allocated to capital projects and billable work at the fully allocated cost multiplied by hours used. The increase in allocated costs demonstrated in the year 2019 is the result of an increased level of capital and billable work undertaken in that year. None of the variances in other years are material, but the annual variances for vehicle costs mirror the variances in allocation of labour to capital and billable work. It should be noted for completeness that vehicles used by affiliates are shown as “other revenue” and is disclosed in OEB Appendix 2-N.

10. Vehicle Costs

OM&A	2013 Actuals	2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals	2018 Actuals
Vehicle Costs	(15,700)	37,300	35,300	29,900	53,700	21,300

OM&A	2019 Actuals	2020 Actuals	2021 Actuals	2022 Bridge Year	2023 Test Year
Vehicle Costs	(8,700)	(33,700)	27,500	92,900	47,700

The 2022 increase in vehicle costs is primarily due to the increase in fuel costs. This was one of the 2022 budget items updated in preparation of this rebasing application when considering the inflationary pressures experienced in 2022. One of the most significant inflationary impacts in 2022 was not COVID related, but the impact of the war in Ukraine on oil and gas prices. The 2022 Budget for fuel was updated for rate application purposes based on year-to-date actuals. The year 2023 assumes stable fuel prices for the remainder of 2022 and into 2023.

11. Postage

OM&A	2013 Actuals	2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals	2018 Actuals
Postage	10,600	22,900	3,600	(7,300)	113,800	(14,700)

OM&A	2019 Actuals	2020 Actuals	2021 Actuals	2022 Bridge Year	2023 Test Year
Postage	1,500	(14,700)	(3,200)	(400)	26,500

The one-time increase in postage costs experienced in the year 2017 is the result of Bluewater moving to monthly billing. Since that time, we have encouraged e-billing with our customers such that postage costs have continued to decline. We have forecast a minor increase in postage costs in 2023 due to an anticipated increase in postage rates.

12. Vegetation Management

OM&A	2013 Actuals	2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals	2018 Actuals
Vegetation Management	(17,000)	(60,200)	81,400	99,500	31,400	(46,800)

OM&A	2019 Actuals	2020 Actuals	2021 Actuals	2022 Bridge Year	2023 Test Year
Vegetation Management	(39,500)	(59,700)	63,000	160,100	61,400

Bluewater has relied on outside third parties to complete its vegetation management program. The cumulative reduction from 2018 to 2020 is approximately \$146,000, with three consecutive years of reduction. With challenges experienced with its outside contractor during COVID 19 Pandemic, Bluewater issued a Request for Proposals in 2022 that resulted in a new third-party contractor for both its four-year regular cycle and its demand driven tree trimming. The forecast cost increase in 2022 and 2023 reflects a 25% increase in the hourly rate for demand work, and an increase in the anticipated level of demand driven work.

The years 2017 to 2023 include allocation of internal costs (labour and truck time) for vegetation management that was not recorded in the years 2013 to 2016. These costs range from a low of \$39,937 in 2019 to a high of \$69,908 in 2017, with the 2023 Test Year at \$62,820. This change in allocation methodology followed Bluewater's review of the results of OEB Activities Based Benchmarking study, and the issue is discussed in Section 4.3.2 as part of overall change in allocation of costs at the Program level.

13. Legal Costs

OM&A	2013 Actuals	2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals	2018 Actuals
Legal Costs	34,900	149,800	(179,300)	36,700	(57,300)	1,100

OM&A	2019 Actuals	2020 Actuals	2021 Actuals	2022 Bridge Year	2023 Test Year
Legal Costs	5,000	13,400	35,500	(54,000)	5,200

The one-time cost in 2014 related to an unfortunate work place fatality that took place in the year 2012. An estimated fine in the amount of \$156,000 was accrued at year end in 2014, which closely equated to the fine that was ultimately assessed by the court in May of 2015. The negative variance in 2015 reflects a return to normal levels of legal costs.

#### 14. COVID

OM&A	2013 Actuals	2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals	2018 Actuals
COVID-19	-	-	-	-	-	-

OM&A	2019 Actuals	2020 Actuals	2021 Actuals	2022 Bridge Year	2023 Test Year
COVID-19		(194,200)	57,800	54,200	57,600

The chart reflects the net impact of COVID. The Pandemic led to increased costs related to health & safety and remote work, but it also led to temporary cost savings. The net impact is reflected in the chart, but the cost drivers and cost savings are discussed separately below.

**Cost Drivers:** Bluewater incurred incremental operating costs relating to the COVID-19 pandemic. Many of these costs were tracked separately within OM&A, although they were not recorded to the OEB Deferral Account 1509. These costs related to added measures in the area of health and safety, cleaning and related supplies, working from home, technology changes, overtime, etc. These incremental costs were \$123,000 in 2021 and none were recorded in any other year.

**Cost Savings:** Bluewater experienced savings in numerous OM&A categories in 2020, some of which lingered into 2021 and 2022 as restriction on activities continued to impact business. These savings were identified and tracked separately, and included such areas as Collection Charges paid to third party collection agency, Utilities, Waste Disposal fees, staff events like Christmas Party, advertising, community sponsorships, OEB Assessment, education, training, travel, meals and printing-related charges. The continued savings by year were as follows:

- 2020 = \$317,200
- 2021 = \$136,400

- 2022 = \$82,600
- 2023 = \$24,500

Accordingly, it is worth noting that Bluewater has seen sustained savings related to change in business practices following COVID. Bluewater has forecast continued reductions in travel, meals, as well as training which has been accommodated through online and in-house resources at a savings.

#### 15. Advertising

OM&A	2013 Actuals	2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals	2018 Actuals
Advertising	15,100	(2,100)	8,400	152,700	(161,900)	6,600

OM&A	2019 Actuals	2020 Actuals	2021 Actuals	2022 Bridge Year	2023 Test Year
Advertising	400	(10,300)	15,100	(9,300)	400

The one-time cost in 2016 relates to Bluewater's 100<sup>th</sup> anniversary celebrations which included one-time donations to each community that is served by Bluewater, as well as promotional events in each community. The negative variance in 2017 reflects a return to more normal levels of spending.

#### 16. Technology and Security

OM&A	2013 Actuals	2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals	2018 Actuals
Technology & Security	26,700	(55,200)	7,600	7,400	157,600	74,200

OM&A	2019 Actuals	2020 Actuals	2021 Actuals	2022 Bridge Year	2023 Test Year
Technology & Security	56,000	121,600	(1,500)	16,800	102,900

As set out in Section 4.1.5 - Overall Cost Drivers, it is noted that the cumulative increase in Technology and Security Costs is \$514,100 over the ten-year period since the last rebasing. The primary category of costs in this Cost Driver relate to software maintenance, hardware maintenance, Internet connectivity and cell phones/connected devices. IT and Security costs have been closely managed, but have been the

unavoidable result of increasing demands on technology as well as inflationary pressures. Bluewater has expanded its software to support operations with products like Cybersecurity, Fleet Management, Outage Management, and also expanded the number of staff with access to such software which drives licensing costs. Other cost drivers relate to the OEB mandate for connectivity of GS>50kW interval meters, which contributed approximately \$115,200 to the total variance of \$514,100.

The variances are spread evenly over time such that the only material annual variance is found in the year 2017, where the variance of \$157,614 was comprised of the following:

- (i) Connected devices (\$45,531): update technology for connected devices to move from unstable bonded DSL connection at remote sites to LTE modem, as well as an increase in cell phones;
- (ii) Software Maintenance (\$82,340): demand for new licences for existing software, as well as new software for Cyber Security in the amount of approximately \$30,000; in addition, the year 2016 included one-time credit from a software service provider which drives approximately \$30,000 of the positive variance in 2017; and
- (iii) T1 Internet (\$32,745): Bluewater has limited connectivity due to lack of fibre in the vicinity of its head office which drove, in part, the decision to establish a telecommunications affiliate which provided superior service at a reasonable price.

#### 17. Inventory and Stores

OM&A	2013 Actuals	2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals	2018 Actuals
Inventory & Stores	2,600	5,400	(300)	(60,400)	130,500	(64,200)

OM&A	2019 Actuals	2020 Actuals	2021 Actuals	2022 Bridge Year	2023 Test Year
Inventory & Stores	44,400	(56,200)	(33,500)	59,900	8,100

In the year 2017, Bluewater undertook a comprehensive program to review inventory in an effort to help manage increasing pressure for outside storage at the utility. The result was a significant one-time write-

off of obsolete inventory items. There are no other material variances, but generally all other fluctuations are driven by year-end inventory adjustments. The general trend is upwards due to forecast inflationary increase to inventory costs.

#### 18. Rate Application Costs

OM&A	2013 Actuals	2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals	2018 Actuals
Rate Application Costs	-	(5,600)	(2,000)	-	(44,100)	(31,500)

OM&A	2019 Actuals	2020 Actuals	2021 Actuals	2022 Bridge Year	2023 Test Year
Rate Application Costs	-	-	-	-	106,300

This cost driver reflects costs incurred for rebasing and amortized over the applicable IRM period. The negative variances in 2017 and 2018, reflect the expiry of the amortized cost from the 2013 Rebasing Application. The positive variance in 2023 reflects the forecast amortized costs.

#### 19. Other Miscellaneous

OM&A	2013 Actuals	2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals	2018 Actuals
Other	8,901	(23,534)	196,917	80,202	86,270	285,004

OM&A	2019 Actuals	2020 Actuals	2021 Actuals	2022 Bridge Year	2023 Test Year
Other	329,206	(90,488)	(208,937)	41,092	181,389

The 'Other' category captures the remaining non-material variances not set out in one of the 18 Cost Drivers described earlier. In all years, except 2015, 2018, 2019, 2021 and 2023, the remaining balance is not material. For those years, the numerous categories of OM&A where the individual variances are immaterial, but are totaled and grouped here for reference:

- 2015 (increase of \$196,917): Composed of increases to Contracted Services (\$44,453), Supplies (\$17,457), and Oil Testing (\$10,208)

- 2018 (increase of \$285,004): Composed of increase in Training (\$53,277), Equipment Testing (\$31,952), and Insurance (\$21,210)
- 2019 (increase of \$329,206): Composed of increase in Contracted Services (\$66,167), Building Materials (\$22,079), Joint Pole Fees (\$18,086)
- 2021 (decrease of \$208,937): Composed of decrease in Contracted Services (\$98,852)
- 2023 (increase of \$184,389): Increase in Contracted Services (\$66,723)

#### **4.3.2 Variance Analysis on OM&A Programs (OEB Appendix 2-JC)**

The variance analysis provided below relates to Appendix 2-JC OM&A Programs. This analysis looks at net OM&A impacting programs that are collected through rates. There are challenges to interpreting some of the variances because Bluewater has improved the accuracy of its allocation of costs to more appropriate departments and USoA accounts as a results of three events:

- (i) **2015 -2020:** Following a review by OEB Staff of Bluewater’s 2017 RRR filing, it was noted that Bluewater had all Operations Labour recorded to Account 5040. Accordingly, in 2018, Bluewater reallocated costs for the years 2015-2017 to more accurately reflect the program level of spending. For the year 2015, that resulted in Bluewater removing \$1,204,028 from Underground Operations and reallocating those labour costs to Stations O&M (\$23,712), Overhead Lines (\$872,076) and Customer Premises (\$308,250). Similar amounts were corrected in the 2016 - 2020 filings;
- (ii) **2017 -2020:** Following an internal review as a result of the OEB Activities Based Benchmarking report, it was noted that Bluewater had \$0 allocated to Vegetation Management. Bluewater noted that its Internal Order for Vegetation Management representing internal labour and truck time dedicated to tree trimming been primarily allocated to Line O&M. These costs were removed from other Programs and reallocated to Account 5135, Overhead – Right of Way (“Vegetation Management”) for all years from 2017 to 2020. It was also determined that third-party tree trimming costs had been allocated to Account 5025, which does not form



1 part of Vegetation Management. Bluewater refiled all years from 2017 to 2020 to move these  
2 costs from Account 5025 to Account 5135; and  
3 (iii) **2021 and forward:** Following receipt of the OEB Activities Based Benchmarking report,  
4 Bluewater further refined its allocations to incorporate all of the changes noted above starting  
5 in the year 2021; that is to say, the allocations were made using the more accurate allocation  
6 methodology for Operations Labour and for Vegetation Management. Bluewater also refined  
7 its allocations in respect of engineering, control room, metering, miscellaneous, and  
8 Underground maintenance, Overhead Maintenance, Poles Maintenance, Meter Maintenance  
9 to more accurately affect the program level of spending.

10  
11 The variances relating to OEB Appendix 2-JC are presented below in **Table 12** for 2013 Actuals vs. 2013  
12 OEB Approved, **Table 13** for 2023 Test Year vs. 2013 OEB Approved, and **Table 14** for 2023 Test Year vs.  
13 2022 Bridge Year. Variance explanations are provided below each table for any program variance greater  
14 than the materiality threshold of \$130,000.

**Table 12: OEB Appendix 2-JC Variance: 2013 Actuals vs. 2013 OEB Approved**

	Last Rebasing Year (2013 OEB- Approved)	Last Rebasing Year (2013 Actuals)	Variance (2013 Actuals vs. 2013 OEB Approved)
<b>Programs</b>			
<b>Reporting Basis</b>			
<b>Customer Focus</b>			
Bad Debt	180,915	312,822	131,906
Billing & Collecting	1,564,927	1,687,513	122,586
Community Relations & Safety	255,542	282,267	26,725
LEAP	-	24,815	24,815
Sub-Total	2,001,384	2,307,417	306,033
<b>Operations &amp; Maintenance</b>			
Engineering	429,377	518,161	88,784
Load Dispatching	331,052	338,289	7,237
Metering	416,291	391,372	(24,919)
Maintenance of Gen Plant & Vehicles	348,663	503,244	154,581
Vegetation Management	189,296	172,295	(17,001)
Building Maintenance	166,023	160,820	(5,203)
Operations O&M	35,469	45,859	10,390
Stations O&M	42,639	47,029	4,390
Lines O&M	1,899,932	1,772,484	(127,447)
Sub-Total	3,858,742	3,949,554	90,811
<b>Administration &amp; General</b>			
Administration	3,140,051	2,854,884	(285,168)
Audit, Finance, Legal and Consulting	171,616	220,684	49,068
Communication	55,297	49,404	(5,894)
Environmental	64,533	900	(63,633)
Insurance	141,451	146,286	4,835
Software/Hardware Mtce	448,444	471,246	22,802
Employee Future Benefits	552,017	681,646	129,629
Benefits	1,486,109	1,284,979	(201,130)
Sub-Total	6,059,518	5,710,028	(349,490)
<b>Public &amp; Regulatory Responsiveness</b>			
Regulatory	357,915	343,663	(14,252)
Sub-Total	357,915	343,663	(14,252)
Miscellaneous			
<b>Total</b>	<b>12,277,560</b>	<b>12,310,662</b>	<b>33,101</b>

**Bad Debt – Increase of \$131,906**

Bluewater experienced a one-time \$93,000 bad debts expense in 2013 due to an unexpected bankruptcy of a significant customer that was not included in the 2013 OEB Approved amount.

Maintenance of General Plant & Vehicles – Increase of \$154,581

This variance is primarily driven by reallocating Stockroom Labour and Student Labour in 2013 (\$179,177) from Administration to Maintenance of General Plant & Vehicles, which was not done in the 2013 OEB Approved amount.

Administration – Decrease of \$285,168

This variance is primarily driven by reallocating the labour relating to Stockroom and Student Labour in 2013 (\$179,177) from Administration to Maintenance of General Plant & Vehicles, and reallocating Contract Employees and other Students in 2013 (\$135,947) from Administration to other more appropriate departments.

Benefits – Decrease of \$201,130

This variance is primarily driven by a greater amount in 2013 that was allocated to capital assets (\$126,398) and allocated to affiliates (\$49,131) than was included in the forecast that forms part of 2013 OEB Approved amount.

**Table 13: OEB Appendix 2-JC Variance: 2023 Test Year vs. 2013 OEB Approved**

	Last Rebasing Year (2013 OEB- Approved)	2023 Test Year	Variance (2023 Test Year vs. Last Rebasing Year (2013 OEB- Approved))
<b>Programs</b>			
<b>Reporting Basis</b>			
<b>Customer Focus</b>			
Bad Debt	180,915	166,400	(14,515)
Billing & Collecting	1,564,927	1,855,752	290,825
Community Relations & Safety	255,542	188,727	(66,815)
LEAP	-	30,000.00	30,000
Sub-Total	2,001,384	2,240,879	239,495
<b>Operations &amp; Maintenance</b>			
Engineering	429,377	748,870	319,493
Load Dispatching	331,052	569,839	238,787
Metering	416,291	609,274	192,983
Maintenance of Gen Plant & Vehicles	348,663	415,445	66,781
Vegetation Management	189,296	462,820	273,524
Building Maintenance	166,023	228,469	62,446
Operations O&M	35,469	838,201	802,732
Stations O&M	42,639	220,104	177,465
Lines O&M	1,899,932	2,520,980	621,048
Sub-Total	3,858,742	6,614,002	2,755,259
<b>Administration &amp; General</b>			
Administration	3,140,051	3,270,008	129,957
Audit, Finance, Legal and Consulting	171,616	182,425	10,809
Communication	55,297	203,985	148,688
Environmental	64,533	41,600	(22,933)
Insurance	141,451	228,584	87,133
Software/Hardware Mtce	448,444	695,272	246,828
Employee Future Benefits	552,017	274,390	(277,627)
Benefits	1,486,109	1,346,712	(139,397)
Sub-Total	6,059,518	6,242,976	183,458
<b>Public &amp; Regulatory Responsiveness</b>			
Regulatory	357,915	665,976	308,061
Sub-Total	357,915	665,976	308,061
<b>Miscellaneous</b>			
<b>Total</b>	<b>12,277,560</b>	<b>15,763,833</b>	<b>3,486,272</b>

**Billing and Collecting – Increase of \$290,825**

The majority of costs falling under Billing and Collecting related to employees costs. Based on inflation, including COL and Progression, these Program Cost would have been expected to increase by

approximately \$195,000, but that increase is offset by a reduction in the number of FTE's allocated to the Program by approximately 1.3 FTE due to restructurings over the ten-year period as well as increased allocations to affiliates.

The remaining increase is related to Postage, which has increased by \$138,533 over the ten-year period, due primarily to the requirement to provide monthly billing which added \$113,800 in the year 2017. In addition, Sensus Metering fees increased due to communication issues and inflation, by approximately \$106,000.

#### Engineering – Increase of \$319,493

Inflation, including COL and Progressions, would account for approximately \$115,000 of this increase. The remaining increase is attributable to the addition of 2 FTE's, the GIS Administrator and the Design Technologist. These additional FTE's were required in order to manage the increasing capital budget for Bluewater, as well as to respond to increased demands from telecommunication providers attaching to infrastructure.

#### Load Dispatching – Increase of \$238,787

Inflation, including COL and Progressions, would account for approximately \$90,000 of this increase. The remaining increase relates to improvements in accuracy of allocation of costs for the year 2021 and forward discussed earlier. The cost impact of that refinement to allocations resulted in \$107,030 additional cost in this Program in the year 2023 that was not included in 2013 Approved.

#### Metering – Increase of \$192,983

Inflation, including COL and Progressions, would account for approximately \$113,000 of this increase. The remaining increase relates to improvements in accuracy of allocation of costs for the year 2021 and forward discussed earlier. The cost impact of that refinement to allocations resulted in \$89,140 additional cost in this Program in the year 2023 that was not included in 2013 Approved.

Vegetation Management – Increase of \$273,524

Bluewater issued an RFP in 2022 and was successful in entering into a contract with a new service provider. The increase includes a 25% increase in hourly rates embedded within the new contract, which increase is reflective of market conditions as evidenced by the results of a competitive RFP. The primary driver of the increase, therefore, is the combination of the increase in rates and the expectation for increased demand for vegetation management. There is also a reallocation affecting the increase in that, for the years 2017 to 2023, the Program costs include internal cost; the year 2023 includes \$62,820 in internal costs that would not have been included in the 2013 costs for this Program.

Operations O&M – Increase of \$802,732

In 2015 and forward, Bluewater refined its allocation of costs to remove labour that would have been, for the year 2013, allocated to Account 5040 forming part of Operations O&M, all discussed earlier. For the year 2023, those labour costs are more accurately reflected under Operations O&M (Overhead Lines and Customer Premises). This change in allocation methodology equates to \$792,841 in 2023.

Stations O&M – Increase of \$177,465

In 2015 and forward, Bluewater refined its allocation of costs to remove labour that would have been allocated to Account 5040 in 2013, and to allocate those labour costs more accurately to Stations O&M. This change in allocation methodology equates to \$91,112 in 2023. The remainder of the variance relates to inflation.

Lines O&M – Increase of \$621,048

When comparing 2013 to 2023, it is necessary to account for the refinement in allocation methodology discussed earlier, which resulted in the amount recorded to this program in 2023 being \$467,525 lower than it would have been if prepared on the same basis as 2013. Therefore, the variance that requires explanation is \$1,088,573, being \$621,048 plus \$467,525. On that basis, we can confirm that the increase in Labour charged to Lines O&M from 2013 to 2023 is \$968,574, and the remainder of the increase primarily relates to inflation on non-labour items.

Communication – Increase of \$148,688

The increase is primarily explained by an increase in cost of connected devices (GS>50kW) in the amount of \$115,200. The remainder is improved quality of internet service at the main office building, combined with inflationary increases.

Software/Hardware Maintenance – Increase of \$246,828

The increase is primarily driven by new software additions totalling approximately \$300,000 over the period from 2017 to 2021. That increase is offset by the allocation of Cyber Security costs in the amount of \$90,375 for the years 2022 and 2023 to the Administration Program. The remainder of the increase relates primarily to inflation.

Employee Future Benefits – Decrease of \$277,627

See cost driver variance explanation included in Section 4.3.1 above.

Benefits – Decrease of \$139,397

The Benefit costs in OM&A have increased by \$156,812 over the period from 2013 to 2023. However, starting in 2021 Bluewater allocated a portion of benefit costs related to employees engaged in maintenance of the distribution system to Operations O&M and Lines O&M. The impact in 2023 was an increased allocation out of the Benefits Program in the amount of \$301,429 to these other programs. The result of this change in allocation is a net decrease in Benefits Program costs, which are the extended benefits for Administration, Engineer, Billing, Finance, etc.

Regulatory – Increase of \$308,061

The increase in Regulatory Program costs is approximately two-thirds related to employee costs, including net change in FTE's, as well as COL and progression increases, and succession planning and training. The remaining increase relates to increases in OEB Assessments, ESA Fees, contracted services and professional membership fees.

**Table 14: OEB Appendix 2-JC Variance: 2023 Test Year vs. 2022 Bridge Year**

	2022 Bridge Year	2023 Test Year	Variance (2023 Test Year vs. 2022 Bridge Year)
<b>Programs</b>			
<b>Reporting Basis</b>			
<b>Customer Focus</b>			
Bad Debt	160,000	166,400	6,400
Billing & Collecting	1,785,440	1,855,752	70,312
Community Relations & Safety	154,483	188,727	34,244
LEAP	24,848.00	30,000.00	5,152
Sub-Total	2,124,771	2,240,879	116,108
<b>Operations &amp; Maintenance</b>			
Engineering	729,319	748,870	19,551
Load Dispatching	579,562	569,839	(9,723)
Metering	598,175	609,274	11,099
Maintenance of Gen Plant & Vehicles	404,363	415,445	11,081
Vegetation Management	401,427	462,820	61,393
Building Maintenance	219,077	228,469	9,392
Operations O&M	789,086	838,201	49,115
Stations O&M	191,573	220,104	28,531
Lines O&M	2,076,346	2,520,980	444,634
Sub-Total	5,988,928	6,614,002	625,073
<b>Administration &amp; General</b>			
Administration	3,144,034	3,270,008	125,974
Audit, Finance, Legal and Consulting	175,411	182,425	7,014
Communication	190,618	203,985	13,367
Environmental	40,000	41,600	1,600
Insurance	219,800	228,584	8,784
Software/Hardware Mtce	617,531	695,272	77,741
Employee Future Benefits	346,340	274,390	(71,950)
Benefits	1,135,611	1,346,712	211,101
Sub-Total	5,869,345	6,242,976	373,631
<b>Public &amp; Regulatory Responsiveness</b>			
Regulatory	457,850	665,976	208,126
Sub-Total	457,850	665,976	208,126
Miscellaneous			
<b>Total</b>	<b>14,440,894</b>	<b>15,763,833</b>	<b>1,322,938</b>

Lines O&M – Increase of \$444,634

This variance is a budget-to-budget comparison, and the increase is driven by a number of factors. First, this O&M category has a \$128,424 increase relating to COL and Progressions. Second, there is the full year



1 impact of the Damage Prevention Technicians when comparing 2022 budget to 2023 budget, and this  
2 represents an increase of approximately \$50,561. Third, Bluewater has forecast succession planning costs  
3 of approximately \$95,000 to account for two potential retirements. Fourth, this O&M category includes  
4 vehicle related costs, which are forecast to increase by \$67,967. The remainder of the increase relates to  
5 inflation, as well as minor decrease in the amount of cost forecast to be allocated to Affiliate, Billable and  
6 Capital in 2023 compared to the year 2022.

7  
8 Benefits – Increase of \$211,101

9 This variance is primarily driven by expected benefit rate increases in 2023. The forecast increases are 2%  
10 for Dental Benefits, 5% for Life Insurance, 10% for Extended Health Benefits, and 10% for Long-Term  
11 Disability. These forecast are reasonable given they are based on 2022 actuals, and projected trends.

12  
13 Regulatory – Increase of \$208,126

14 The increase in Regulatory Program costs is primarily related to the inclusion of 20% of the estimated  
15 2023 rate application costs as presented in Section 4.6.3, whereas no such amounts are included in the  
16 2022 Bridge Year since previous regulatory costs are fully amortized. The increase also includes amounts  
17 relating to inflation, including COL and progression, as well as succession planning and training.

18  
19 **4.4 Workforce Planning and Employee Compensation**

20  
21 **4.4.1 OEB Appendix 2-K – Employee Costs**

22  
23 As a provider of a public service, the majority of OM&A incurred by Bluewater relates to the people it  
24 employs to deliver service to its customers. This section has been provided to explain the trends in  
25 employee compensation costs experienced over the ten year period from 2013 to 2023.

26  
27 The underlying assumptions for the completion of Appendix 2-K analysis are presented below:

- 28  
29 • Bluewater's 2013 Approved amount was based on a settlement reached with Intervenor and  
30 approved by the OEB. There was no specific settlement reduction specific to compensation or FTE's

That has necessitated assumptions elsewhere in this application, but for the purposes of OEB Appendix 2-K we have not provided any settlement reductions on compensation or FTE's as there was no specific settlement reduction on either amount

- Incentive Pay for 2023 Test Year has been included in OEB Appendix 2-K as 90% of the gross amount paid to employees under Bluewater's Incentive Pay Program to reflect the fact that 90% of the benefit is claimed to be recovered through rates. This treatment is consistent with the 2009 and 2013 Rebasing Application where the results measured for determining Incentive Pay were determined to be 90% to the benefit of ratepayers and 10% to the benefit of shareholder
- We have assumed for 2023 that each employee eligible for progression successfully reaches their next progression as per the Collective Agreement or non-union pay scales.

**Table 15: OEB Appendix 2-K**

	Last Rebasing Year (2013 OEB Approved)	Last Rebasing Year (2013 Actuals)	2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals
<b>Number of Employees (FTEs including Part-Time)<sup>1</sup></b>						
Management (including executive)		27.1	27.6	27.2	29.1	30.6
Non-Management (union and non-union)		66.8	58.5	61.6	63.2	67.7
Total	-	93.9	86.1	88.8	92.3	98.3
<b>Total Salary and Wages including overtime and incentive pay</b>						
Management (including executive)		\$ 3,223,582	\$ 3,303,365	\$ 3,486,808	\$ 3,806,160	\$ 4,120,436
Non-Management (union and non-union)		\$ 4,556,412	\$ 4,391,646	\$ 4,843,155	\$ 4,967,652	\$ 5,159,946
Total	\$ -	\$ 7,779,994	\$ 7,695,011	\$ 8,329,963	\$ 8,773,811	\$ 9,280,382
<b>Total Benefits (Current + Accrued)</b>						
Management (including executive)		\$ 825,522	\$ 864,712	\$ 934,178	\$ 1,019,665	\$ 1,153,229
Non-Management (union and non-union)		\$ 1,526,409	\$ 1,252,219	\$ 1,372,212	\$ 1,414,344	\$ 1,499,325
Total	\$ -	\$ 2,351,932	\$ 2,116,931	\$ 2,306,390	\$ 2,434,009	\$ 2,652,554
<b>Total Compensation (Salary, Wages, &amp; Benefits)</b>						
Management (including executive)	\$ -	\$ 4,049,105	\$ 4,168,077	\$ 4,420,986	\$ 4,825,825	\$ 5,273,665
Non-Management (union and non-union)	\$ -	\$ 6,082,821	\$ 5,643,865	\$ 6,215,366	\$ 6,381,995	\$ 6,659,271
Total	\$ -	\$ 10,131,926	\$ 9,811,942	\$ 10,636,353	\$ 11,207,820	\$ 11,932,936
<b>Total Compensation Breakdown (Capital, OM&amp;A)</b>						
OM&A		\$ 8,356,321	\$ 7,882,868	\$ 8,295,120	\$ 8,691,775	\$ 9,258,418
Capital		\$ 1,775,605	\$ 1,929,074	\$ 2,341,233	\$ 2,516,045	\$ 2,674,517
Total	\$ -	\$ 10,131,926	\$ 9,811,942	\$ 10,636,353	\$ 11,207,820	\$ 11,932,936

	2018 Actuals	2019 Actuals	2020 Actuals	2021 Actuals	2022 Bridge Year	2023 Test Year
<b>Number of Employees (FTEs including Part-Time)<sup>1</sup></b>						
Management (including executive)	30.1	30.3	30.0	29.1	29.1	31.1
Non-Management (union and non-union)	69.4	66.8	61.6	63.1	75.3	75.8
Total	99.6	97.1	91.5	92.2	104.5	106.9
<b>Total Salary and Wages including overtime and incentive pay</b>						
Management (including executive)	\$ 4,194,553	\$ 4,252,672	\$ 4,564,446	\$ 4,503,931	\$ 4,490,327	\$ 4,872,454
Non-Management (union and non-union)	\$ 5,441,132	\$ 5,737,350	\$ 5,761,297	\$ 5,799,115	\$ 6,803,825	\$ 6,984,847
Total	\$ 9,635,684	\$ 9,990,021	\$ 10,325,743	\$ 10,303,045	\$ 11,294,151	\$ 11,857,301
<b>Total Benefits (Current + Accrued)</b>						
Management (including executive)	\$ 1,151,891	\$ 1,244,388	\$ 1,037,706	\$ 1,119,899	\$ 1,102,078	\$ 1,219,550
Non-Management (union and non-union)	\$ 1,611,915	\$ 1,591,425	\$ 1,567,301	\$ 1,534,563	\$ 1,800,104	\$ 1,819,989
Total	\$ 2,763,806	\$ 2,835,814	\$ 2,605,007	\$ 2,654,462	\$ 2,902,182	\$ 3,039,539
<b>Total Compensation (Salary, Wages, &amp; Benefits)</b>						
Management (including executive)	\$ 5,346,444	\$ 5,497,060	\$ 5,602,152	\$ 5,623,829	\$ 5,592,405	\$ 6,092,004
Non-Management (union and non-union)	\$ 7,053,046	\$ 7,328,775	\$ 7,328,598	\$ 7,333,678	\$ 8,603,929	\$ 8,804,836
Total	\$ 12,399,490	\$ 12,825,835	\$ 12,930,750	\$ 12,957,507	\$ 14,196,333	\$ 14,896,840
<b>Total Compensation Breakdown (Capital, OM&amp;A)</b>						
OM&A	\$ 9,481,168	\$ 8,810,165	\$ 8,798,164	\$ 8,802,582	\$ 9,740,506	\$ 10,430,429
Capital	\$ 2,918,322	\$ 4,015,670	\$ 4,132,586	\$ 4,154,924	\$ 4,455,827	\$ 4,466,411
Total	\$ 12,399,490	\$ 12,825,835	\$ 12,930,750	\$ 12,957,507	\$ 14,196,333	\$ 14,896,840

#### 4.4.2 Human Resources Strategy

##### 4.4.2.1 Introduction to Workforce and Succession Planning

Workforce and Succession Planning are a substantial part of Bluewater's corporate planning and budgeting processes. Bluewater strives to attract and retain employees that are among the best in the industry, and to provide them with challenging and meaningful work, while offering them opportunities for knowledge, growth and career development. This report will discuss the challenges faced by Bluewater, both specific to our utility and those generally impacting our industry. Those challenges are being met through strategies to recruit, retain and develop our workforce.

The challenges in the workforce are addressed in the section of this report entitled "Challenges in the Workforce". That section explores the challenges due to the make-up of our workforce and our geographic location and circumstances. Bluewater has not been a high growth region, which is reflected in our

1 relatively flat customer count over the past decade, so growth in FTE count has been driven by the need  
2 to keep up with industry changes and to manage the demands associated with an aging infrastructure.

3  
4 The single biggest internal factor driving this Human Resource strategy at present and over the next  
5 decade is turnover of employees through retirement. Since the last rate application in 2013, Bluewater  
6 has had 56 individuals retire, resign and/or position eliminated. This report will start with that challenge,  
7 and the other challenges and strategies that relate to recruiting the next generation of workers. The other  
8 workforce challenges addressed in this report are those generally applicable to the electricity industry in  
9 Ontario. The section entitled “Demands on our Workforce” discuss shortages in skilled trades, evolving  
10 demands of the industry, and the nature of the modern workforce.

11  
12 In response to these internal and external challenges, Bluewater has developed a strong recruitment and  
13 selection process, offering salaries and benefit packages that are competitive in both the local market  
14 and LDC industry while also being cognizant of the budgetary and business constraints of operating in a  
15 regulated environment. Bluewater truly values its employees and is aware that its employees are the  
16 major contributor to the success of the business, and we are proud to have won employee relations  
17 awards from our local Chamber of Commerce. Still, Bluewater operates in an extremely competitive  
18 labour market, both in terms of the electricity industry but also the local competitive impacts of “Chemical  
19 Valley” which is enjoying a strong resurgence at the moment. We face significant challenges recruiting  
20 and retaining skilled positions such as engineers/engineering technicians, powerline technicians,  
21 regulatory personnel and information technology professionals. We have employed three main strategies  
22 to address these challenges as set out below which will be discussed in greater detail in the section of the  
23 report entitled “Strategies to Attract and Retain Workers”:

- 24  
25 (1) Variety of Opportunities: The modern worker is motivated by the variety in their work. They do  
26 not want to perform the same type of work everyday. This challenge cannot be overstated and  
27 has a profound effect on workforce management and recruiting. Bluewater attempts to provide  
28 a variety of work opportunities through two key strategies (i) by providing opportunity for non-  
29 utility work through the sharing of staff from Bluewater to its affiliates, and (ii) focussing on  
30 building expertise in-house rather than hiring third-party consultants.

(2) Apprenticeship Program for Powerline Technicians: Maintaining an effective workforce requires balance between experienced personnel and apprentices. Bluewater actively recruits experienced Powerline Technicians, but we build our foundation on apprentices who have graduated from a recognized Powerline Technician program.

(3) Competitive Compensation Program: Bluewater balances the demands of a competitive workforce with the financial restraints associated with operating in a regulated environment. Our compensation objectives are to provide a comprehensive compensation package for a company of our size, aligned with the position which can vary depending upon local demands for people with those skills and/or the challenges of recruiting certain professionals away from the Greater Toronto Area. Compensation includes salary, as well as benefits package which Bluewater manages very closely.

#### ***4.4.2.2 Challenges in the Workforce***

Bluewater is the result of the merger of six hydro-electric commissions spread across Lambton County. While employees who held leadership positions in the former commissions have retired or will be retiring in coming years, the workforce remains somewhat spread out geographically. The only employees that are subject to residency requirements are Powerline Technicians, Electrical Operators and Electricians as they are required to respond to emergencies.

The primary challenge in workforce management faced by employers today relates to the post-COVID environment and the well-documented phenomena of “quietly quitting”. According to Korn Ferry surveys, employee engagement is at its lowest level since the year 2014, with 50% of the workforce considered to be disengaged<sup>6</sup>. Although some employees will take on added responsibility or extra hours, the general rule in the modern workforce is that special efforts are required to motivate employees in a post-COVID environment. These challenges have impacted Bluewater most significantly in the area of willingness to take on Overtime amongst Union Staff. It is a challenge that Bluewater has addressed by providing a variety of work as will be discussed later in this report. It is also a challenge, however, that affects all

---

<sup>6</sup> [https://www.kornferry.com/insights/this-week-in-leadership/are-half-your-employees-unmotivated?utm\\_campaign=09-15-22](https://www.kornferry.com/insights/this-week-in-leadership/are-half-your-employees-unmotivated?utm_campaign=09-15-22)

Operations planning and, therefore, relates directly with workforce planning to ensure adequate staff are available to perform work in an environment where overtime is often not desired by employees.

Turning now to workforce planning, the primary considerations in workforce planning for Bluewater are as follows:

- Aging workforce is the greatest challenge, and will be discussed next
- Continuously evolving regulatory changes, customer service demands, and information technology related to cyber security which all require different skills, expertise and competencies to meet the needs of Bluewater's stakeholders
- Relatively stable growth in the requirement for skilled trades personnel to meet operational demands taking into consideration the allocation of work between capital and OM&A activities, growth projections, sharing requirements related to affiliates, employee turnover and the overall shortage of skilled labour within the electrical industry and local industry
- The primary driver of growth in FTE count is the growth in capital spending due to aging infrastructure and demands to replace distribution infrastructure beyond its useful life
- Tying back to the discussion above, the challenge in managing FTE growth in an evolving work environment, including a general lack of willingness to work overtime
- Bluewater's geographic location, which places us outside potential commuting distance of the GTA, and is relatively isolated due to being surrounded by international crossing to the west and water to the north

Bluewater's business decisions are based on the premise that the company's objectives will be met through the contributions of a diverse team of engaged, trained, educated, creative, committed and productive employees. Taking into consideration the needs of all stakeholders and offering exceptional service at a reasonable cost, Bluewater strives to manage the workforce planning factors impacting operations by:

- Being proactive instead of reactive when considering staffing for departments that require a significant amount of training

- 1 • Providing continuous training, development and mentorship to personnel, promoting internally,  
2 and hiring staff that have relevant experience such as apprentices and graduates with the required  
3 credentials
- 4 • Enhancing staffing levels in departments that require the additional resources and continuously  
5 reviewing staffing levels to meet the demands of the business
- 6 • Participating in asset management, continuously reviewing infrastructure requirements and  
7 forecasting future demands as accurately as possible

8  
9 Bluewater's Human Resources Strategy is to maintain optimal staffing levels by continuously reviewing  
10 organizational and operational demands, as well as monitoring trends in the modern workforce and the  
11 associated impacts on our employees. This strategy is designed to help increase the effectiveness,  
12 efficiency, preparedness, and overall success of the organization. In order to accomplish these objectives,  
13 Bluewater focuses on attracting and retaining qualified personnel in an industry that is confronting an  
14 aging workforce and is competing for skilled resources. Bluewater's workforce includes both unionized  
15 and non-unionized employees. The comprehensive total compensation and benefits package is designed  
16 to attract and retain the required workforce while also taking into consideration budgetary, legal and  
17 regulatory requirements. Detailed in the following section is the year-over-year changes from 2013 to  
18 2022 of staffing level changes due to organizational and operational demands of Bluewater.

#### 19 20 **Managing Turnover:**

21 Like many companies, Bluewater has faced significant challenges managing turnover. As demonstrated in  
22 the chart below, the level of retirements in 2021 and 2022 has increased from an average of just under 3  
23 retirements per year to 5 retirements in each of 2021 and 2022. Between the periods 2013 to 2022,  
24 Bluewater has an average turnover rate of 5.6% with a total turnover rate of 56% over that ten-year  
25 period. Due to the higher turnover rate and the subsequent recruitment for replacements, the average  
26 age of employees in 2022 has decreased marginally to 43 (down from 44 in 2012). The better indication  
27 of our success in recruitment is that, in 2022, 60% of staff are over the age of 40, which is down from 72%  
28 in 2012. Bluewater strives to maintain its workforce and allocate sufficient funds to ensure new hires are  
29 properly on-boarded, trained and developed. Bluewater has tried to maintain its full FTE complement

over the last ten (10) years but it has not always been manageable due to challenges with recruiting the required skilled trades personnel and the increased turnover due to retirements and resignations.

The more challenging trend is that Bluewater lost 10 employees over that same time period due to employees leaving for other opportunities. That level of turnover (not due to retirement) was unseen in the utility in 2013 and 2014, but the chart below reflects an upward trend that has peaked in the last two years. It is a trend that requires a focussed and deliberate response to manage, which discussion will be the focus of the section entitled “Strategies Employed to Retain Workers”.

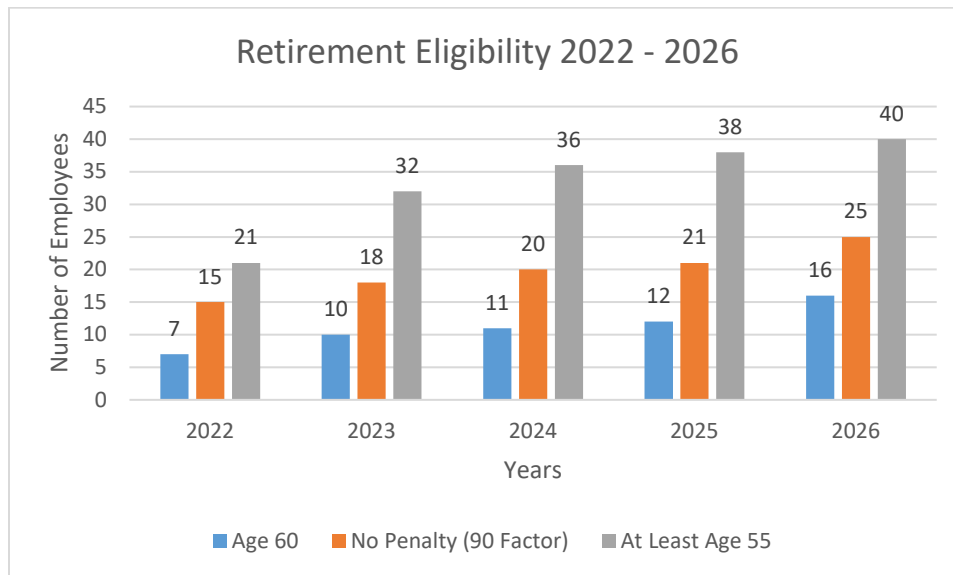
**Table 16 – Turnover Analysis**

Year	2013		2014		2015		2016		2017		2018		2019		2020		2021		2022		Total	
Type	R	L	R	L	R	L	R	L	R	L	R	L	R	L	R	L	R	L	R	L	R	L
Number	4	0	4	0	2	2	1	2	5	2	1	3	0	3	3	3	5	9	5	2	30	26
Turnover Rate %	4.3%	0%	4.4%	0%	2.1%	2.1%	1.0%	2.1%	5.0%	2.0%	0.9%	2.8%	0%	2.9%	3.0%	3.0%	4.9%	8.7%	4.8%	1.9%	30.4%	25.6%
Total Turnover Rate%	4.3%		4.4%		4.2%		3.1%		7.0%		3.8%		2.9%		6.0%		13.6%		6.7%		56.0%	
R =Retirement    L = Left for other reasons																						

Focussing on retirements, based on the current Retirement Eligibility, Bluewater expects to experience 5 retirements each year over the next five years. The Retirement Eligibility chart presented as **Table 17** for the period from 2022 to 2026 demonstrates eligibility to retire on a cumulative basis. If all eligible employees wait until 2026 to consider retirement, then at that point:

- 39% of the current workforce will be older than the eligible retirement age (55)
- 23% of the current workforce could retire with an unreduced pension
- 11% of current trades personnel could retire with an unreduced pension



**Table 17 – Retirement Eligibility 2022 – 2026**

Based on industry experience, Bluewater projects a 25% turnover in employees over the next five years. This is expected due to the eligibility of retirements, but also reflects the continued increase in higher-than-normal turnover rates experienced by all industries during recent years.

If the data is further broken down by Union, Non-Union and Management, then that reveals that those eligible to retire with an unreduced pension is concentrated in the management group. Although 23% of the overall workforce will be eligible to retire with an unreduced pension over the next five years, that number becomes 48% when looking only at management. This presents a particular need to focus on development of the internal workforce toward leadership roles.

Succession Planning is the single biggest priority for the HR Strategy for Bluewater at this time. As with many things, retirements present both an opportunity and a challenge. Retirements create a clear opportunity to find efficiency through restructuring of duties. When vacancies occur, these are considered opportunities to re-assess operational needs and manage cost pressures. Of course, these reviews depend upon operational and departmental needs, as well as consideration of challenges in recruiting certain skilled positions. Given the challenge of pending retirements, it is imperative to have a mind to the future

1 in order to maintain “bench strength” in the organization. This reality of pending retirements also drives  
2 the need to train employees, provide variety of opportunities and to provide overlap during the succession  
3 planning process.

4  
5 Over the next five years as the number of retirements and subsequent vacancies continues to grow,  
6 Bluewater’s ability to effectively deliver on its core business must be addressed through workforce  
7 planning. Additional attrition could prove to be a factor and contribute to a potential labour shortage and,  
8 more importantly, a loss of knowledge.

9  
10 Bluewater has been recruiting professionals within the required departments to address the corporation’s  
11 future requirements for succession planning as retirements occur. In replacing the vacant positions,  
12 Bluewater uses a variety of workforce planning approaches including promoting internally, training and  
13 professional development, and mentorship opportunities and when needed recruiting from external  
14 sources. Those are discussed next in this report.

#### 15 16 **4.4.2.3 Demands on Our Workforce**

17  
18 Not only does Bluewater have to be cognizant of current demands on its workforce, we also need to  
19 ensure that we keep abreast of any future demands on our workforce. The following sections focus on six  
20 key areas and the demands that are faced.

##### 21 22 **a) Demands on Skilled Trades**

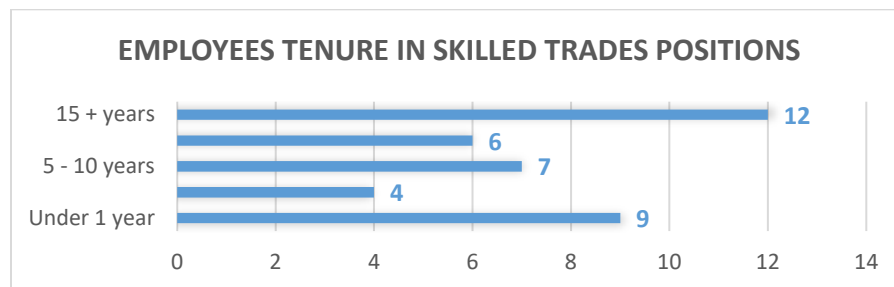
23 Working in a high-risk environment requires Bluewater to attract and hire skilled personnel. The  
24 electricity sector is competing for workers both within the sector and within other industries. That is  
25 particularly true at this time where “Chemical Valley” located in and around Sarnia is undergoing a  
26 resurgence, which has created significant demand for skilled trades; despite efforts between industry  
27 and unions, as well as lucrative compensation, projects in “Chemical Valley” are falling behind  
28 schedule due to lack of resources. It is difficult to attract and retain workers in such an environment,  
29 and apprenticeship personnel take between four to five years for incumbents to become fully  
30 proficient in the position. Bluewater strives to minimize training overlap and to mitigate the impact

of the skills shortage by hiring proficiently trained skills trades personnel; however, with Powerline Technicians we have prioritized a strategy of hiring apprentices as recent history has proven this to be more effective.

Bluewater focuses on maintaining the number of fully trained and proficient workers and continuously maintaining the skills and proficiency required in order to ensure the safe and reliable distribution of electricity. With each retirement or resignation, the company also experiences a loss of valuable experience and knowledge. When replacing tenured employees with individuals who have considerably less experience it causes hardship on the entire department. In 2022, 43% of the current workforce has ten or fewer years of relevant service.

Bluewater strives to provide extensive and varied “on the job” experience. This approach requires a careful balance of experienced and new employees. The current tenure demographics of skilled trade positions at Bluewater are reflected in **Table 18**.

**Table 18 – Employees Tenure in Skilled Trades Positions**



As reflected in the above table, 34% of skilled trades personnel have less than 5 years experience at Bluewater. This represents a slight increase in the number of less experienced personnel as the equivalent percentage in 2013 was 31% with less than 5 years’ experience. This has an impact on the fully qualified staff since they may have to work additional overtime, work with multiple individuals that require additional attention or resources, which could cause burnout, and may have to mentor multiple individuals and work with reduced teams to maintain approved ratio requirements.

**b) Demands on Management**

Ontario LDCs continue to experience ongoing regulatory changes, increased demands on Information and Technology as well as Health and Safety. In order to fulfil the requirements of these changes, Bluewater required additional expertise to strengthen the capacity in these essential areas. Those areas include IT, Regulatory, and Engineering, but over that period Bluewater also managed expansion and then contraction of the Conservation and Demand Management functions of a utility in Ontario.

At the same time, Bluewater faced increasing challenges in workforce management as its Capital Budget increased by nearly double over the period from 2013 to 2023. In an effort to strengthen management to allow for the more efficient management of projects and personnel, two key management positions were added:

- Operations Supervisor (2014): added to improve coordination and efficiencies in response to growing capital demands on the Operation side of the business
- Manager, Billing and SAP Solutions Specialist (2016): promotion of an existing position to add management responsibilities as IT moved toward an in-house model of software management

We highlight these two key additions, which are complemented by the internal development of project management personnel, as they were essential to achieving an expanded capital budget with nearly all incremental FTE's being deployed effectively to Capital. In addition, as noted earlier, nearly half of management are eligible to retire without reduction in pension in the next five years, so allowing opportunities for promotion reflects our philosophy of developing expertise and leadership internally.

**c) Demands of Aging Infrastructure**

Many utilities in Ontario face tremendous demands for the capital infrastructure required in order to meet customer growth. Bluewater has seen modest growth in customer count but a steady increase in the level of spending on System Access (from \$886,000 in 2014 to \$1.694 million in 2020). System Access includes new connection of residential and commercial customers, but also upgrades to existing connections and new subdivisions where there can be a delay in the conversion of spending to the realization of new customers.

The main driver of our capital needs relate to aging electrical infrastructure, known as System Renewal. Capital spending over the same period from 2014 to 2020 has nearly tripled from \$1.676 million in 2014 to \$4.506 million in 2020. The year 2021 in **Table 19** below reflects a decrease in spending as a result of COVID and workforce issues as we faced unprecedented loss of skilled trades people in that year. The message, therefore, is that the primary driver of our capital increase on a normal basis is the aging infrastructure, which represents a continued challenge in upcoming years as well.

**Table 19 – Capital Spending**

Distribution System Plan Actual (\$000's)									
Category	2013	2014	2015	2016	2017	2018	2019	2020	2021
System Access	728	886	1,519	1,156	1,138	1,167	1,530	1,694	1,964
System Renewal	1,852	1,676	3,326	3,866	3,604	4,374	5,103	4,506	3,541
System Service	320	404	371	725	585	790	246	301	366
General Plant	2,506	1,629	1,690	2,299	2,537	2,363	2,636	3,062	3,136
<b>Grand Total</b>	<b>5,406</b>	<b>4,595</b>	<b>6,906</b>	<b>8,046</b>	<b>7,864</b>	<b>8,694</b>	<b>9,515</b>	<b>9,563</b>	<b>9,007</b>

Capital spending is forecast to continue at current levels over the next 5 years of the capital plan. The sustained increase in spending is primarily driven by System Renewal and System Access. The increase in System Renewal has seen spending on Wood Pole replacement in excess of \$2 million across the system, as well as upgrades to substations and extension of the 27.6kV system to eliminate lower voltage systems. System Access is also forecast to increase into the range of \$2 million in spending for each of the years from 2021 to 2023, and beyond. Considering Bluewater's philosophy to complete capital spending in-house (discussed next), the demands on staff are expected to be significant. Those demands impact not only outside staff, but also Information Technology, Engineering and other support services.

**Table 20 – DSP Forecast Spending**

<b>Distribution System Plan Forecast (\$000's)</b>						
<b>Category</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>
System Access	2,200	2,322	2,446	2,520	2,595	2,642
System Renewal	5,292	6,659	5,900	5,244	5,401	5,520
System Service	360	514	194	200	206	211
General Plant	4,300	2,877	3,170	3,630	3,903	4,257
<b>Grand Total</b>	<b>12,152</b>	<b>12,372</b>	<b>11,710</b>	<b>11,594</b>	<b>12,105</b>	<b>12,630</b>

During the period from 2013 to 2016, Bluewater struggled to maintain the workforce required to complete its capital program. Accordingly, the capital program fell behind, so Bluewater turned to third-party contractors. Those third-parties proved to be a challenge to schedule and manage, but also had no benefit from a cost-effectiveness perspective. A philosophy was adopted over time to move that work back in-house. That necessitated a focus on recruiting qualified skilled trades, including Journeyman Powerline Technicians, IT personnel, and related support staff.

FTE Count has grown primarily in response to capital demands. Section 4.4.2.5 - FTE Variance Analysis summarizes the growth in FTE's on a Gross Basis, meaning all FTE's before allocation to affiliates, billable work, and capital projects. On a Gross basis, the FTE count has increased from 102.8 in 2013 actuals to 118 in 2023 projected. That increase of 15 FTE's is partially offset by an increase of 2.3 FTE's allocated to affiliates and billable work. This demonstrates the success of Bluewater's efforts to achieve Economies of Scope. The remaining growth of 12.7 FTE's is offset by the growth in FTE's allocated to capital work, which increased by 16 FTE's over that same time period. The result of these continuing efforts to drive efficiencies and manage workload has resulted in a net reduction of 3.3 FTE's being allocated to O&M over the past 10 year period.

In other words, although on a Gross Basis Bluewater has added FTE's, the increased effort dedicated to capital projects, affiliates, and billable work demonstrates that Bluewater has, in fact, achieved significant

efficiencies in its operations. In pursuit of the goal to “Achieve more with less”, Bluewater’s Economies of Scope demonstrate that we work to achieve “significantly more with modestly more resources” has resulted in savings to ratepayers in the Operating costs of the utility. Those efficiencies have been achieved through efforts discussed throughout this report, but summarized as follows:

- Increasing the number of supervisors on the Operations side from 2 to 3 has driven efficiencies so more time of skilled trades is dedicated to capital, without sacrificing maintenance, by more closely managing multiple demands which leads to reduced downtime and improved productivity
- Focus on doing work in-house has increased FTE count in Operations and IT, but those additional resources were primarily to replace third party service providers so that the additional FTE’s were brought on board for the intent purpose of performing capital, which efforts will continue:
  - This is demonstrated in **Table 25** where the FTE equivalent for Powerline Contractors decline after 2018, in the same year Bluewater successfully recruit 5 Powerline Technicians; and
  - As discussed in Section 4.1.8, Bluewater has spent \$0 on outside contractors for SAP development or support since 2014, while building a team of professionals to complete step-like upgrades to SAP and other system.

#### **d) Demands of Customer Service**

Customer demands and relationships continue to evolve. Customers deserve and expect timely and accurate responses to their inquiries, despite the increasing complexity of our sector. Staff are required to be trained, educated and have a broad depth of knowledge within the industry so that they are able to manage customer expectations and ensure that they are providing customers with accurate, current and up-to-date information. The Ontario Energy Board mandates specific performance indicators related to Customer Service such as the percentage of calls answered within 30 seconds of presentation, the number of abandoned calls and the response time to written enquiries. Customer service representatives must be able to respond to customer inquiries with exceptional customer service while keeping in mind that the service expectations are tracked and reported to the OEB.

1 Alternative methods of communication between Bluewater and its customers, such as e-mail, online,  
2 and social media have continued to grow. Bluewater has enhanced the online presence where  
3 customers can access information about their utility account through an on-line portal known as  
4 myAccount. Online communication has resulted in new challenges for customer service as they now  
5 must be able to advise customers on how to navigate computer platforms and assist with website  
6 navigating. As the electricity industry continues to be very complex, customer service representatives  
7 must stay apprised of all the various charges used in the calculation of bills as well be aware of the  
8 financial concerns of customers due to the rising costs and complicated nature of our industry.  
9 Bluewater attempts to manage these growing demands through very active social media presence that  
10 is responsive and well received by customers.  
11

#### 12 **e) Demands of Technological Advancements**

13 Technological enhancements and security awareness continue to be a growing trend in all industries  
14 especially the electricity industry in Ontario. Changes driven by regulation, the environment and  
15 industry extend to all levels of the organization. Bluewater requires a workforce that is both  
16 knowledgeable and skilled as it pertains to the on-going changes in the use of technology and  
17 requirements of the LDC landscape. This presents a challenge for Bluewater. We must foster an  
18 environment of continuous learning for existing employees and have in place mechanisms to attract  
19 new employees who are technically inclined and have the propensity and aspiration to continue to  
20 advance.  
21

22 All levels of the organization now require continuous training on cyber security awareness and  
23 software training. Technology advancement is continuous and the demands and requirements by the  
24 users are constantly changing. Some of the technological enhancements made for all Bluewater  
25 employees include:  
26

- 27 • online access to enter and record working hours and enhanced features to support financial  
28 processing based on working hours
- 29 • online access to view individual training information for on and off site work locations
- 30 • online access to view all company policies and procedures



- online access to report any workplace safety issues
- capability to request online purchases and order supplies as needed

Additional programming is continuously taking place to enhance the SAP program and reporting means for all users. The Information Technology department has plans over the next several years to implement yearly business improvement projects to maintain and update the SAP system as well as other internal platforms. These changes will bring about the required technological advancements and streamline business processes. With any technology, cyber security is a major concern. A third party has been selected to provide continuous online training to all employees, to share communication with employees of recent threats and to complete random phishing email attempts to ensure employees are aware and cognizant of cyber security. As technology has enhanced and employees have more online capabilities, technology is now pervasive within all roles of the organization.

Training employees on new technological changes is happening at a continuous pace and this places more pressure on departments and employees to be current and educated in more areas than their traditional roles. Information Technology departments are required to educate and train employees to be up to date on new enhancements as well as maintain deep technical expertise in specific systems and broad technical knowledge in the vast number of requisite solutions.

#### **f) Demands of Policy and Regulatory Changes**

The Electricity Industry has always been the focus of public policy. The privatization of the electricity industry in 1999 was often referred to as “Deregulation” of the industry but it, in fact, resulted in profoundly greater regulation of the electrical distribution sector. Today that includes regulatory efforts to manage cybersecurity, access to the electrical distribution grid, and facilitation of broadband. The generation industry has also seen thwarted efforts to move toward an open market of electricity, which now appear to be moving forward with the IESO’s Market Renewal initiative. At the same time, the OEB is exploring the future role of electrical utilities with respect to Distributed Energy Resources. Layered on top of all of these policy and regulatory change is the trend in the market toward

1 electrification of transportation and the electricity industry promises to continue to be the focus of  
2 public policy.

3  
4 The expertise required of professionals working in the electricity industry continues to grow in Ontario.  
5 The regulatory and policy expertise at present is concentrated in the Greater Toronto Area ("GTA").  
6 Those with expertise in outlying areas like Bluewater are approaching the age of retirement. It presents  
7 particular challenges to attract such expertise outside of commuting distance of the GTA, so the  
8 strategy necessary is to develop the expertise internally. This requires concentrated effort on training  
9 and light use of third-party consultants so as not to create a reliance on outside parties for expertise.  
10 It is a difficult balance to achieve, but it is a strategy that seeks to develop internal expertise rather  
11 than reliance on outside parties.

#### 12 13 **4.4.2.4 Strategies to Attract and Retain Workers**

14  
15 Within the LDC sector, the challenge of recruiting a qualified and adequately resourced workforce  
16 continues to be the drive for cost control. As a service provider, approximately 70% of costs are related  
17 to employee compensation. The task of managing the compensation and benefits presents a significant  
18 challenge in a competitive workforce, which becomes compounded when operating within a regulated  
19 environment. This section will provide background on Bluewater's compensation strategy within that  
20 competitive workforce, and focuses on two non-financial strategies that are intended to attract qualified  
21 and motivated employees without increasing compensation. Those strategies include (1) creating varied  
22 and challenging work conditions, and (2) Bluewater's apprenticeship program for Powerline Technicians.

##### 23 24 **4.4.2.4.1 Compensation Strategy**

25  
26 Salary is not the only factor that enables recruitment and retention of employees, but it is a necessary  
27 component in order to remain competitive. Provided that Bluewater can provide a compensation package  
28 where salary and benefits are comparable to those offered by others, then non-financial benefits become  
29 of greater concern. This section speaks to the programs that Bluewater utilizes to achieve fair  
30 compensation of its employees sufficient to keep us on the same playing field as others seeking the same

1 skilled and professional personnel. This section will summarize our approach with Union and Non-union  
2 Employees, and then speak to the Incentive Pay program available to both groups. This report also  
3 references the changes made during the April 2014 Collective Agreement negotiations in order to control  
4 compensation costs. Changes in compensation directly impact benefits, so a discussion of benefits follows.  
5 As part of the discussion of Benefits, this report addresses a change in benefits for retirees introduced in  
6 January 1, 2016 to control costs.

### 8 **Unionized Employees**

9 Bluewater's unionized workforce is represented by the International Brotherhood of Electrical Workers  
10 (IBEW), Local 1802. The bargaining unit represents a variety of positions including tradespersons and  
11 customer service staff, often referred to as the "outside" and "inside" personnel. The current Collective  
12 Agreement expires on March 31, 2027. The collective agreement provides for annual payroll increases  
13 and employee class progressions. Labour wages are the result of the negotiation process and are adjusted  
14 annually based on the percentages contained within the collective agreement.

15  
16 The Annual hourly increase negotiated in the Collective Agreements covering the period from 2014 to  
17 2027 was 2% each year for employees in Group I and II. For employees in Group III to IX, the explanation  
18 of the annual increase is more complicated because the following changes were made for the three-year  
19 term of the contract negotiated for rate effective April 1, 2014 that have resulted in cumulative savings  
20 over the next 8 years of \$685,000:

- 21
- 22 • Three positions were removed from Group II, then reclassified into a new Group III at a lower rate
- 23 • For new employees hired into Group III to IX, a new 10 class annual progression was created to
- 24 replace the previous 4 class progression (5 classes in one case)
- 25 • During the period from 2014 to 2016, all positions within Group III – IX were frozen

26  
27 The negotiated rate increases were consistent with other increases within the LDC industry, local market  
28 and cost of living increases. In particular, we note the very difficult negotiations in 2014 were the result  
29 of the management's successful efforts to bring those positions into alignment with the market. For the

contract negotiated in 2020, it is worth noting that inflation trends have impacted more recent negotiations, such that Bluewater can comfortably conclude that the negotiated rate increases for the period from 2022-2027 are lower than the result we could reasonably expect if the negotiations were taking place currently. It was prudent to have negotiated a long-term stable increase in our last Collective Bargaining exercise, but this does create the potential for issues with recruiting in future years if inflation continues to rise. This is something that we will continue to monitor.

Bluewater has nine (9) union position classifications. Each wage rate has a progression scale that increases from the base rate to a maximum rate. The industry standard Hay Guide Method is used to evaluate positions and to develop pay structures, it takes into consideration know how, problem solving, accountability and working conditions. The results of the Hay Guide Method are to provide a systemic process for ranking positions logically and fairly by comparing positions against each other or against a pre-determined scale to determine the placement within an organizations class.

#### **Non-Unionized Employees**

As with union employees the Hay Guide Method is used to evaluate each non-union position and to determine the placement within an organization's pay grade. Bluewater's compensation program consists of 17 Pay Grades. These pay grades are applied to all positions outside the bargaining unit and include administrative, technical, managerial, and senior leadership roles. Any new incumbent is placed within their pay grade based on their experience entering the position. Progression is not automatic, but is generally completed yearly upon successful completion of a performance review that evaluates the employee's competencies, merit, individual growth, performance and achievement of goals and objectives. The pay grades provide for:

- Opportunity to reward, retain and attract skilled employees
- Opportunity for grade placement to new employees in relation to skills and capabilities
- Reduce compression issues between unionized and non unionized employees
- Compensation structure similar to other LDC, as well as best practices

1 Annually, Bluewater's non-union compensation program is reviewed by the Compensation Committee of  
2 the Board of Directors. As a general rule, although not guaranteed, non-unionized employees receive an  
3 annual cost of living salary increase similar to that negotiated in the Collective Agreement, but the  
4 committee takes into consideration more current information on inflationary and industry pressures to  
5 ensure we are maintaining external equity with our industry competitors. Prior to approving the annual  
6 salary increase, the Compensation Committee takes into consideration significant research related to  
7 consumer price indices, market forces, recent settlements within the LDC and our local industry  
8 environment in order to determine appropriate increases.

9  
10 Bluewater Power has participated in the MEARIE salary survey in each of the past ten years. The results  
11 of the survey insofar as it relates to the size and other characteristics of an organization like Bluewater,  
12 including regard for the results at the 50th percentile, are considered in conjunction with other factors  
13 associated with a particular hire or position when determining an appropriate level of compensation.  
14 Bluewater has found that the annual review is a useful tool that assists in the task of remaining  
15 competitive in an industry where there is a scarcity of trades, technical knowledge and management  
16 experience.

17  
18 Bluewater remains dedicated to ensuring that competitive salaries are offered to attract and retain the  
19 required staffing levels. Even with these approaches and the year-over-year labour cost increases trending  
20 above the OEB inflation rates there have been many times where positions are turned down by potential  
21 candidates due to lower total compensation than expected. This will continue to provide challenges in  
22 ensuring that positions are filled by the required qualified candidates.

#### 23 24 **Incentive Compensation**

25 As Bluewater considers all of its employees (union and non-union) to be a major factor in its success, the  
26 incentive program applies to all permanent employees. The incentive plan is based on the following  
27 corporate performance indicators: spending, reliability and service, financial and safety. Bluewater was  
28 one of the first utilities in Ontario that made its Incentive Compensation program available for union  
29 employees. Bluewater believes it is important to not only maintain competitive compensation, but also  
30 deliver a clear message that all employees contribute to the success of the company.

All four levels of Corporate Performance indicators must be achieved on an annual basis in order for employees to qualify for the full incentive compensation payments for the performance period. If Bluewater does not meet one or more of the above Corporate Performance indicators, payment will be based on the number of indicators met. Each performance indicator is valued at 25%. For example, if only three of the four indicators are met, payment will be at 75%. Once the Corporate Performance criteria is met the individual compensation is dependant upon the level of achievement on the individual employee's annual performance appraisal.

Effective January 1, 2023 Bluewater is implementing a new program that represents an update to the measure inline with the Business Plan. The revised measures likewise measure four performance metrics similar in nature to the current four performance metrics, with slightly varying weights. The weighting for each metric vary from 10% to 45% as set out below.

Operational Effectiveness including Safety	45%
Financial Performance	25%
Customer Focus	20%
Public Policy Responsiveness	10%

The Incentive Plan will essentially operate in the same manner as the existing plan.

#### **Benefit Costs**

Bluewater offers a comprehensive benefits package including health and dental benefits, life insurance, accidental death and dismemberment insurance, paid sick leave, vacation, employee assistance plan and OMERS pension plan contributions. Contributions to mandatory benefits include employer health tax, Canada pension plan, employment insurance premiums and WSIB insurance. The comprehensive benefit plans apply to both union and non-union permanent employees and are designed to address the health and welfare needs of employees and their families.

Bluewater, along with the assistance of our external benefit consultant, try to control benefit costs. This is done alongside with company support, the Health and Wellness Committee, and the Early and Safe

1 Return to Work Program. Costs are reviewed annually and cost increases within the benefit program have  
2 risen through claims and experience, overall rising costs of benefits, and inflation.

3  
4 Bluewater provides post-employment life insurance and health and dental benefits to all current active  
5 full-time employees and retirees under the age of 65. A limited number of current retirees and employees  
6 are entitled to lifetime benefits, instead of to age 65. Bluewater continuously reviews post-employment  
7 benefits to minimize costs and remove lifetime benefit programs for all new employees and dependants.  
8 Due to the continuous review of the post-employment benefit program, and the goal to reduce costs  
9 Bluewater has five different life insurance, health and dental benefit eligibility groups for coverage  
10 outlined as follows:

- 11
- 12 • Hired prior to December 31, 1989 have extended health coverage till death, cost shared dental  
13 and vision for five years or up to age 65, cost shared Canada Life insurance \$12,500 until death  
14 and MEARIE life insurance until death
  - 15 • Hired between January 1, 1990 and December 31, 2005 have extended health coverage until  
16 death, cost shared dental and vision for five years or up to age 65 and MEARIE life insurance till  
17 death
  - 18 • Hired between January 1, 2006 and December 31, 2011 with a minimum of 10 years active service  
19 have extended health coverage to age 65, cost shared dental and vision for five years or up to age  
20 65 and MEARIE life insurance until death
  - 21 • Hired between January 1, 2012 and December 31, 2015 with a minimum of 10 years active service  
22 have extended health coverage to age 65, cost shared dental and vision for five years or up to age  
23 65
  - 24 • Hired on/after January 1, 2016 with a minimum of 25 years active service have extended health  
25 coverage to age 65 only
- 26

27 Bluewater pays 100% of the cost of the MEARIE life insurance benefits and 2/3 of the cost of the Canada  
28 Life insurance benefits for all eligible retirees. As the employees eligible for this coverage continue to age  
29 and since there are few employees eligible to join this plan, the life insurance premiums continue to  
30 increase steadily. Bluewater pays 100% of the cost of the extended health insurance benefits and shall

pay for post-retirement vision and dental benefits according to the following reducing schedule of premiums table below.

**Table 21 – Retiree Schedule of Premiums**

Reduced Schedule of Premiums		
Year	Corporation Share	Retiree Share
1	100%	0%
2	80%	20%
3	60%	40%
4	40%	60%
5	20%	80%

Bluewater does not pay for post-retirement vision and dental benefits for retirees beyond 5 years.

Bluewater's participation in OMERS is mandatory based on provincial legislation. Pension contributions have remained constant since 2013 and Bluewater remits 9% on the first amount up to YMPE of earnings and then 14.6% of earnings thereafter (subject to various inclusions and exclusions). The contributory rates required by Bluewater have not changed significantly since 2013 as provided in the OMERS YMPE **Table 22** below.



**Table 22 – OMERS Funding Requirements**

OMERS YMPE			
Year	YMPE	Funding required to YMPE	Funding required over YMPE
2022	\$64,900	9%	14.6%
2021	\$61,600	9%	14.6%
2020	\$58,700	9%	14.6%
2019	\$57,400	9%	14.6%
2018	\$55,900	9%	14.6%
2017	\$55,300	9%	14.6%
2016	\$54,900	9%	14.6%
2015	\$53,600	9%	14.6%
2014	\$52,500	9%	14.6%
2013	\$51,100	9%	14.6%

Bluewater uses the accrual method of accounting for employee future benefits with the exception of the OMERS pension plan. OMERS is accounted for on a cash basis due to it being a multi-employer pension plan and individual employee future benefit obligations are not available at an employer level. Effective January 1, 2023 OMERS is offering eligibility to all non-full-time employees to participate in the pension plan immediately upon hire. This change will increase employer contributions effective January 1, 2023. Refer to the recent actuarial evaluation for future benefit costs under Exhibit 4, Attachment 4-1.

The **Table 27** in Section 4.4.3.4 provides a detailed summary of all Bluewater's paid statutory and fringe benefit program costs from 2013 Actual to the 2023 Test Year.

#### **4.4.2.4.2      *Non-financial strategies to Attract/Retain workers***

The section above highlights our programs to ensure our compensation is competitive and yet at a reasonable cost. It is critical to present a compensation package that is competitive, but other non-

1 financial strategies are key to both attracting and retaining employees. Two such strategies are discussed  
2 below.

#### 4 **Apprenticeship Program**

5 Bluewater has faced challenges in recruiting and maintaining its complement of Powerline Technicians  
6 over the past decade. In the year 2015, we hired four fully qualified Powerline Technicians due to the  
7 aging workforce and demand for skilled personnel within the operations department. Employees  
8 recruited in such a manner tend to have higher turnover rates, but they have proven critical to building a  
9 team of skilled individuals for immediate productivity benefits. They also develop necessary experience  
10 to provide guidance for apprentices, so these efforts will continue.

12 Over the past 10 years, Bluewater has built a team of Powerline Technicians with the skills and abilities  
13 and broad knowledge base. In order to ensure the longevity of that team, management believes that  
14 apprentices are critically important to our future. Being somewhat geographically isolated, we also see  
15 value in recruiting apprentices from Lambton County who want to be near home. It is time-consuming  
16 and expensive to build experience from within, so it is key to invest the time necessary to select the best  
17 candidates.

19 Health and Safety requires a ratio of 1 to 1 of qualified trades worker and apprentice. Our philosophy,  
20 however, is that proper training is most effectively and safely accomplished by limiting each crew to 1  
21 apprentice. Crew size varies depending upon the nature of the work, but they are generally around 4 crew  
22 members. A ratio of 3 to 1 represents a scenario that provides an optimal and safe learning environment  
23 for our apprentices. With a guiding principle of 1 apprentice per crew, that generally means that we peak  
24 at 4 apprentices at any given time.

#### 26 **Variety of Work Opportunities**

27 Bluewater seeks to attract the “best of breed” across all skilled trades. One of the key strategies to  
28 accomplish that objective is to offer a variety of work to attract employees looking for a challenge and to  
29 assist in retaining the modern employee who seeks variety. An article published by Korn Ferry entitled  
30 “Quiet Quitting: One Solution” suggests that 70% of employees consider the bulk of their job to be

1 monotonous work. The solution is to create more “meaningful work”, which Bluewater seeks to  
2 accomplish by providing a variety of work. Electrical distributors have been able to attract workers looking  
3 for a “stable utility job”, but that may not necessarily lead to “best of breed” employees in the context of  
4 the modern workforce. Accordingly, we have adapted by providing our skilled workers a hybrid work  
5 experience with stability and challenges. This approach has worked effectively with both outside skilled  
6 trades but also IT professionals.

7  
8 That hybrid work experience has been made possible for Bluewater by sharing its skilled trades people  
9 with affiliates. Powerline Technicians have had the opportunity to work on private distribution systems  
10 located in Industry, which provides them with opportunities to learn new skills and expand their  
11 knowledge. IT Professionals have the opportunity to work on Bluewater’s servers, communication  
12 equipment and disaster recovery centre, but they also have the opportunity to assist an affiliate that  
13 operates a local fibre optic network. The variety of work creates opportunities for career development  
14 that would not be possible this organizational structure.

15  
16 This strategy is complemented by our philosophy of bringing more work in-house. Capital completed in-  
17 house is cost competitive compared to outside third parties, but is superior from a scheduling and ease  
18 of monitoring by Engineering and Health & Safety. This philosophy has permitted Bluewater to increase  
19 its work force to achieve the increase in capital necessitated by aging infrastructure.

20  
21 The cost efficiencies of bringing information technology in house are equally notable. In the period leading  
22 up to the 2013 Rebasing Application, Bluewater had spent \$3 million on third party consultants to upgrade  
23 and perform customization on our SAP system, which includes Customer Information System, Finance,  
24 Work Order Management, and Purchasing. Since that time, Bluewater has developed a path that not only  
25 has avoided any further upgrades to SAP, it facilitated the development of a team of in-house  
26 programmers and a project manager that has resulted in zero spending on third party IT consultants  
27 between 2014 and 2021. These efforts have not only been financially beneficial for Bluewater and its  
28 customers, but has also provided more satisfying work for the employees involved. Bluewater has built  
29 an extraordinary team of IT Professionals which has resulted in a cost effective system.

30

#### 4.4.2.5 FTE Variance Analysis

The **Table 23** presents FTE Count on a Gross basis. These FTE counts represent all employees with Bluewater, regardless of the extent to which the time and costs for those employees are allocated to affiliates, billable revenue or capital projects.

**Table 23 - FTE Variance Analysis 2013 to 2023**

	2013 Actual	2014 Actual	2015 Actual	2016 Actual	2017 Actual	2018 Actual	2019 Actual	2020 Actual	2021 Actual	2022 Actual	2023 Test Year
Directors	1.20	1.20	1.40	1.40	1.40	1.60	1.65	1.80	1.75	1.60	1.60
Management	28.00	29.00	29.13	31.33	32.77	32.08	32.92	31.66	30.90	30.50	32.50
Non-Union	17.42	17.00	17.00	15.98	16.74	16.95	15.02	15.10	14.65	17.00	16.33
Union	49.25	45.33	47.63	47.68	50.17	53.50	53.08	54.95	54.97	58.70	60.50
Contract	1.00	3.84	5.12	2.58	5.20	3.33	3.75	3.60	2.64	2.43	1.14
Students	5.92	4.49	4.79	6.42	7.31	7.30	7.76	2.36	3.47	6.00	5.97
Total	102.79	100.8	105.0	105.3	113.5	114.7	114.1	109.4	108.3	116.2	118.0
Variance		-1.93	4.21	0.32	8.2	1.17	-0.58	-4.71	-1.09	7.85	1.81

The **Table 24** presents the Gross Total FTE count from the table above and, then, nets off FTE's allocated to affiliates through Cost Sharing Agreements, paid by the IESO for CDM activities, charged to customers and/or developers through billable invoices to perform billable work at the cost of customers and/or developers, as well as those FTE's allocated to capital projects. The final net number are the FTE's intended to represent the FTE count employed by Bluewater to operate, maintain and manage the utility. The exclusion of Capital in this table is appropriate for these purposes; although FTE's allocated to capital are recovered from customers through rates, this analysis is intended to demonstrate that Bluewater has reduced the number of FTE's required to operate, maintain and manage the utility by approximately 8 FTE's from 2013 to 2023.

**Table 24 – Allocation of FTE’s to Affiliate, Billable and Capital**

	2013 Actual	2014 Actual	2015 Actual	2016 Actual	2017 Actual	2018 Actual	2019 Actual	2020 Actual	2021 Actual	2022 Actual	2023 Test Year
Total FTE	102.8	100.9	105.1	105.4	113.6	114.8	114.2	109.4	108.3	116.2	118.0
Allocations:											
Affiliates	5.5	10.3	10.2	8.7	9.9	8.8	9.1	9.7	7.5	5.8	7.7
CDM	2.0	2.0	4.3	2.7	2.8	3.3	3.0	1.8	1.0	1.0	0
Billable	1.4	2.5	1.8	1.7	2.6	3.1	5.0	6.5	7.8	4.9	3.4
Capital	13.5	13.9	17.0	17.5	18.6	20.8	26.2	27.1	27.6	30.0	29.7
Net FTE	80.5	72.2	71.8	74.8	79.7	78.9	70.9	64.4	64.4	74.5	77.2

Allocation to affiliates and billable has been relatively stable over the years, but does fluctuate from year-to-year. The allocations to CDM peaked in 2015 as Bluewater hosted a team of Energy Managers on behalf of multiple utilities, but was otherwise stable and then declined after the Conservation First Framework was wound-down. The fluctuations with Billable work during the period from 2020 to 2021 was primarily driven by demands associated with the Oversized Load Corridor (OLC) Project funded by the City of Sarnia and County of Lambton with funding from higher levels of government. The OLC Project was like any other customer driven project, where a customer agrees to pay for the cost of changes to the distribution system required immediately for their purposes. The difference between the OLC Project and other billable projects was the magnitude.

The resulting reduction in the Net FTE count is evident in **Table 24**. The trend is clear, and the fluctuations are primarily explained by workload and challenges in recruiting and retaining skilled trades throughout the ten-year period. In particular, during the period from 2013 to 2014 there were challenges filling roles until a significant recruitment effort in 2015 resulted in four experienced Powerline Technicians being hired. During that time, Bluewater relied on overtime and third-party contractors to meet workload requirements. As FTE’s increased amongst Powerline Technicians in 2018, Bluewater was able to reduce its reliance on third-party contractors as demonstrated in the table below. At the same time, Bluewater

also increased its Overtime in 2019 to 2020 to meet workload and as we faced unexpected demand and turnover. That has led, again, to the need to review the use of third-party contractors in 2022. The chart below is provided to demonstrate the fluctuations in levels of overtime and hiring of third-party contracts in support of the discussion in this Appendix.

**Table 25 – FTE Equivalent for Overtime and Outside Contractors**

	2013 Actual	2014 Actual	2015 Actual	2016 Actual	2017 Actual	2018 Actual	2019 Actual	2020 Actual	2021 Actual	2022 Actual	2023 Test Year
Overtime <sup>1</sup>	7.7	7.5	9.8	9.3	11.9	11.9	12.8	12.7	9.8	9.6	9.5
Outside contractors <sup>2</sup>			2.7	3.1	1.2	2.3	0.1				
<p>1 FTE equivalent determined by dividing total OT cost by employee group and dividing total cost by the average total compensation per FTE in that group of employees</p> <p>2 FTE equivalent determined by dividing total Powerline contractor cost related to labour by \$100 per hour as an approximation of the equivalent employee cost</p>											

In summary, the general trend highlighted in this FTE Variance Analysis is that the growth in FTE count is primarily explained by growth in Capital as positions were added in order to meet expanded capital needs, while attempting to bring more work in-house. The year 2020 and 2021 were further strained by demands to complete the OLC Project as FTE allocated to Billable work peaked in those years at 6.5 FTE's and 7.8 FTE's, respectively. With this project driven by outside needs beyond our control, attention is now focussed on normal maintenance and capital in 2022 and 2023.

The remainder of this section will look at the annual variances in detail. We have provided explanation to the level of individual positions to assist the Board in understanding the areas in which growth in FTE's were required in order to meet the need for growth in capital, as well as the need to build expertise and prepare for the potential exodus of an aging workforce. In providing the detailed analysis below, there may be promotions/retirements that are not addressed in detail, but we have focussed on primary drivers that explain the majority of the annual variance. The variance analysis looks at headcount and FTE's.

Changes in headcount are shown only when a new position is created; where a position is vacant due to turnover, then the headcount is not reduced, but the FTE for that year would be lower by 1 FTE.

#### **2013 OEB Approved FTE vs. 2013 Actuals**

This variance is explained as a variance from 2013 Applied-for FTE count. Bluewater's total actual FTE for 2013 was 102.79 compared to the 2013 applied for budget of 109.7. This variance of -7.07 FTE's represents a 5.5% reduction, which closely corresponds to the \$900,000 reduction to OM&A agreed to as part of the settlement before the OEB. Nearly half of that reduction in FTE's between proposed and actual was related to 3 additional FTE's that were proposed with the rebasing application in order to move to monthly billing, which was removed during settlement. The specific difference in FTE shown as headcount and approximate change to FTE count are as follows:

#### **Management (1.00 decrease in FTE)**

- One (1) Operations Supervisor position added but remained vacant

#### **Non-Union (1.42 increase in FTE)**

- One (1) Financial Analyst transferred from contract position at start of year
- One (1) Accountant retired at end of year and replaced with overlapped by one (1) Financial Analyst

#### **Union (6.75 decrease in FTE)**

- Two (2) Customer Service Dunning Representatives retired and two positions were replaced with some overlap in replacements
- One (1) Vehicle Mechanic retired and position was not replaced
- Three (3) Powerline Technicians were budgeted but vacant majority of the year
- Two (2) Billing Representatives were budgeted to move to monthly billing, but change in billing practice did not occur so positions were not filled
- One (1) Mail Room Clerk was budgeted to move to monthly billing, but change in billing practice did not occur so positions were not filled

Contract (1 decrease in FTE)

- One (1) contract Financial Analyst was budgeted as a contract employee but moved to non-union at start of year

Students (0.26 increase in FTE)

#### **2014 Actuals vs. 2013 Actuals**

Bluewater continued to recruit Powerline Technicians complicated by the retirement of the locator. There was one net increase in the number of powerline technicians and one new line supervisor was added in an effort to reduce downtime and improve efficiencies in operations. Due to retirements, however, Bluewater's total FTE count fell by 1.93 from 2013 to 2014. The details of those differences in FTE were as follows:

Management (1 increase in FTE)

- One (1) Operations Supervisor position was filled

Non-Union (0.42 decrease in FTE)

- Due to retirement and overlap from previous year

Union (3.92 decrease in FTE)

- Two (2) Powerline Technicians retired and replaced with no overlap in replacements
- One (1) Locator retired and position was not replaced
- One (1) Customer Service Field Representative retired and position was not replaced

Contract (2.84 increase in FTE)

- One (1) Cashier hired to replace employee on leave
- One (1) Field Data Coordinator hired due to workload
- Two (2) Energy Service Managers hired as shared resource for three utilities



Students (1.43 decrease in FTE)

**2015 Actuals vs. 2014 Actuals**

Bluewater successfully recruited Powerline Technicians in order to meet workload demands and was able to replace the four vacant positions from previous years. Positions vacated due to resignations were replaced and one stock keeper position was reviewed due to retirement and not replaced. Bluewater's total FTE count increased by 4.21 from 2014 to 2015. The details of those differences in FTE were as follows:

Directors (0.2 increase in FTE)

- One (1) Board of Director was hired for retirement planning

Management (0.13 increase in FTE)

- One (1) Manager, Health and Safety resigned and position was replaced with overlap

Union (2.3 increase in FTE)

- One (1) Powerline Technician resigned and position was replaced
- One (1) Stockkeeper retired and position was not replaced
- One (1) Electrical Operator retired and position was replaced
- One (1) Meter Technician moved to new position and was replaced
- Four (4) Powerline Technicians were hired

Contract (1.28 increase in FTE)

- One (1) Billing Representative hired due to workload
- One (1) Field Data Coordinator position ended
- One (1) Energy Service Manager hired for project

Students (0.3 increase in FTE)

**2016 Actuals vs. 2015 Actuals**

Bluewater reviewed workload and technological demands within the Information Technology and Billing department which resulted in a reorganization of staff within the department. The three Energy Service's Managers hired to service multiple utilities and funded by the IESO came to an end. Bluewater's total FTE count increased by 0.32 from 2015 to 2016. The details of those differences in FTE were as follows:

**Management (2.2 increase in FTE)**

- One (1) Operations Coordinator resigned and position was replaced with overlap
- One (1) Manager, Billing and SAP Solutions Specialist position was added
- One (1) Director, Strategic Analysis and CDM position was added

**Non-Union (1.02 decrease in FTE)**

- One (1) Senior SAP Solutions Specialist position reassigned to Management
- One (1) GIS Administrator resigned and position was replaced with a lower cost Customer Service Clerk position

**Union (0.05 increase in FTE)**

- One (1) Billing Representative retired and was not replaced

**Contract (2.54 decrease in FTE)**

- Three (3) Energy Service Manager positions ended and were not replaced
- One (1) temporary Engineer was hired through the year
- One (1) temporary Customer Service was hired through the year

**Students (1.63 increase in FTE)****2017 Actuals vs. 2016 Actuals**

Bluewater experienced a high number of retirements this year and, due to internal succession planning and filling of vacant roles with internal staff, there was a lot of movement within the company. Workload

demands within the operations department continued and additional powerline technicians were added to keep up with workload as well to prepare for future retirements. Bluewater's total FTE count increased by 8.2 from 2016 to 2017. The details of those differences in FTE were as follows:

Management (1.44 increase in FTE)

- One (1) Director, Human Resources retired and was replaced with overlap
- One (1) Human Resources Generalist was reassigned and replaced with overlap

Non-Union (0.76 increase in FTE)

- One (1) Financial Analyst retired and was replaced with overlap
- One (1) Payroll Administrator retired and was replaced
- One (1) Field Data Coordinator retired and was not replaced
- One (1) GIS Administrator was hired to fill vacant role from previous year

Union (2.49 increase in FTE)

- One (1) Stockkeeper retired and was replaced with overlap
- Three (3) Powerline Technicians were hired
- Two (2) Customer Service Representatives resigned and were replaced with overlap

Contract (2.62 increase in FTE)

- One (1) Field Data Coordinator hired on temporary contract
- One (1) Executive Assistant hired for term assignment

Students (0.89 increase in FTE)

**2018 Actuals vs. 2017 Actuals**

Bluewater continued to experience demand within the Information Technology and Regulatory departments and, as a result two positions were established, including senior network engineer and associate lawyer. Recruitment for qualified powerline technicians continued as well as replacement

positions for resignations/retirements. Bluewater's total FTE count increased by 1.17 from 2017 to 2018.

The details of those differences in FTE were as follows:

Directors (0.2 increase in FTE)

- Two (2) Board of Directors were hired through the year for succession planning

Management (0.69 decrease in FTE)

- One (1) Associate Lawyer position was added
- One (1) Human Resource Generalist resigned and was replaced
- One (1) Control Room Supervisor retired and was replaced

Non-Union (0.21 increase in FTE)

- One (1) Senior Network Engineer was added
- One (1) GIS position was added and later in the year one (1) GIS position resigned and was not replaced
- One (1) Design Technologist position was added
- Two (2) Finance personnel took leaves and were replaced with contracts

Union (3.33 increase in FTE)

- One (1) Control Room Operator reassigned and replaced with overlap
- Five (5) Powerline Technician were hired and one (1) resigned within first year of employment

Contract (1.87 decrease in FTE)

- One (1) Executive Assistant contract ended
- Two (2) Finance on temporary contracts to replace employees on leave
- One (1) Customer Service Clerk assignment ended
- One (1) Cashier contract ended

Students (0.01 decrease in FTE)

**2019 Actuals vs. 2018 Actuals**

Bluewater experienced significant movement within the management team this year including a restructuring within the operations department as well as the wind down of the CDM program which resulted in reduction of staffing needs. Bluewater's total FTE count decreased by 0.58 from 2017 to 2018. The details of those differences in FTE were as follows:

**Directors (0.05 increase in FTE)**

- One (1) Board of Director retired and replaced in following year

**Management (0.84 increase in FTE)**

- One (1) Manager Lines position was added
- One (1) Operations Supervisor reassigned and position replaced
- One (1) Director, Strategic Analysis and CDM position ended at end of year and not replaced

**Non-Union (1.93 decrease in FTE)**

- One (1) GIS position took leave and was replaced with contract
- Two (2) Finance personnel took leaves and were replaced with contracts

**Union (0.42 decrease in FTE)**

- One (1) Customer Service Representative resigned and position was replaced
- One (1) Powerline Technician resigned and position was replaced

**Contract (0.42 increase in FTE)**

- Two (2) Finance on temporary contracts to replace employee on leave

**Students (0.46 increase in FTE)****2020 Actuals vs. 2019 Actuals**

Bluewater started to experience higher than normal turnover due to retirements and resignations also a reduction in staffing due to the continued winding down of the CDM program. Summer student positions

were impacted due to the COVID-19 pandemic and delays to recruitment and onboarding candidates delayed many processes. Bluewater's total FTE count decreased by 4.71 from 2019 to 2020. The details of those differences in FTE were as follows:

Directors (0.15 increase in FTE)

- One (1) Director was hired to replace vacancy from previous year

Management (1.26 decrease in FTE)

- One (1) Associate Lawyer took leave and position was not replaced
- One (1) Administrative Assistant retired and replaced
- One (1) Human Resources Generalist retired and was replaced

Non-Union (0.08 increase in FTE)

- One (1) GIS position took leave and was replaced with contract
- One (1) Finance position on leave and was not replaced
- One (1) Design Technologist resigned and position replaced
- One (1) Conservation and Demand positions ended
- One (1) Conservation Program Administrator was added

Union (1.87 increase in FTE)

- One (1) Powerline Technician resigned and position was replaced
- One (1) Powerline Technician retired and position replaced in following year
- One (1) Electrician position was added
- One (1) Motor Vehicle Mechanic position was added

Contract (0.15 decrease in FTE)

- One (1) GIS on temporary contract to replace employee on leave
- One (1) Finance temporary contract to replace employee on leave ended

Students (5.4 decrease in FTE)

**2021 Actuals vs. 2020 Actuals**

Bluewater experienced unprecedented turnover in 2021 which resulted in realigning departments, reviewing vacated positions to reassign workload and increased recruitment efforts to attract the right candidates for the roles. The pandemic continued to delay recruitment Bluewater's total FTE count decreased by 1.09 from 2020 to 2021. The workload from unfilled positions was shared temporarily, where possible, but the levels of staffing were not sustainable. The details of those differences in FTE were as follows:

Directors (0.05 decrease in FTE)

- One (1) Board of Director retired throughout the year and position was not replaced

Management (0.76 decrease in FTE)

- One (1) Director, Human Resources retired and position was replaced with overlap
- One (1) Human Resources Generalist reassigned and position was replaced with position listed below
- One (1) Human Resources and Health and Safety Administrator added
- One (1) Associate Lawyer returned from leave
- One (1) Control Room Supervisor retired at end of year

Non-Union (0.45 decrease in FTE)

- One (1) Design Technologist resigned and position replaced in following year
- One (1) Financial Analyst retired and position was not replaced
- One (1) GIS position returned from leave
- One (1) Finance position on leave and was not replaced
- One (1) Conservation and Demand position ended

Union (0.02 increase in FTE)

- One (1) Meter Services Representative retired at end of year and position not replaced
- Five (5) Powerline Technicians resigned, one (1) Powerline Technician reassigned and four (4) were replaced
- One (1) Electrician resigned and position was replaced with two (2) Electricians
- One (1) Customer Service Representative took a leave and replaced with contract
- One (1) Customer Service Representative resigned and position replaced
- One (1) Billing Representative retired and position replaced with overlap

Contract (0.96 decrease in FTE)

- One (1) GIS contract ended
- One (1) Customer Service Representative contract to replace employee on leave
- One (1) Senior Regulatory Advisor added for project work
- One (1) Finance contract to replace employee on leave ended

Students (1.11 increase in FTE)

**2022 Actuals vs. 2021 Actuals**

Bluewater experienced an increase in the amount of retirements at the beginning of 2022, as in the previous years internal restructuring occurred due to the vacancies as well workload was redistributed where appropriate. Restrictions from the pandemic were being reduced and staffing levels were able to be restored to pre pandemic levels. Bluewater's total FTE count increased by 7.85 from 2021 to 2022. The details of those differences in FTE were as follows:

Directors (0.15 decrease in FTE)

- One (1) Board of Director retired throughout the year and position was not replaced

Management (0.4 decrease in FTE)

- One (1) Line Supervisor took leave and position was replaced



- One (1) Executive Assistant retired and replaced

Non-Union (2.35 increase in FTE)

- One (1) Finance position returned from leave
- One (1) Junior Programmer Analyst position was added
- One (1) Design Technologist hired
- One (1) GIS position added
- One (1) Accountant retired and position replaced with overlap

Union (3.73 increase in FTE)

- One (1) Stockkeeper Part-Time added
- Three (3) Powerline Technicians were hired and one (1) was to replace a retirement
- One (1) Powerline Technician resigned and recruiting for replacement
- One (1) Customer Service Field Representative retired and replaced with overlap
- One (1) Locator retired and position was reclassified and replaced with Two (2) Damage Prevention Technicians

Contract (0.21 decrease in FTE)

- One (1) Customer Service Representative contract ended

Students (2.53 increase in FTE)

**2023 Test Year vs. 2022 Actuals**

Bluewater is expecting there will be movements within the current complement of staffing levels but the overall total headcount should be reduce by one. Currently, Bluewater is expecting the following changes in 2023.

Management (2.00 increase in FTE)

- Two (2) Projected Supervisor retirement(s) and replacements with overlap

- One (1) Senior Regulatory Advisor added

Non-Union (0.67 decrease in FTE)

- One (1) Conservation Program Administrator position ending

Union (1.80 increase in FTE)

- One (1) Powerline Technician replacement for previous year vacancy

Contract (1.29 decrease in FTE)

- One (1) Senior Regulatory Advisor moved to management
- One (1) temporary Engineer ended

Students (0.03 decrease in FTE)

#### **4.4.3 Benefits and Pension**

##### **4.4.3.1 Statutory and Extended Benefits**

Bluewater offers a comprehensive and competitive benefits package, which includes health, dental, life insurance, vacation and leave policies, long-term disability, and the statutory benefits of Employer Health Tax, CPP, EI and WSIB insurance. These benefits are designed to address the health and wellness needs of all of Bluewater's employees. A more detailed discussion on Bluewater's benefit plan is included in Section 4.4.2.4.1

##### **4.4.3.2 OMERS Pension Plan**

Bluewater employees are members of the Ontario Municipal Employees Retirement System (OMERS). OMERS is a multi-employer pension plan that most LDCs participate in, therefore the pension benefit provided to Bluewater's employees is consistent with that of other LDCs. The plan is a contributory defined pension plan, which is financed by equal contributions from the employer and employee based

on the employee's contributory earnings. For the 2023 Test Year, Bluewater assumed OMERS rates of 9.0% on earnings up to the CPP earnings limit and 14.6% on earnings over the CPP earnings limit as published on the OMERS website.

#### **4.4.3.3 Other Post-Employment Benefits (OPEB) – Cost Accrual**

Bluewater uses RSM Canada Consulting LP to prepare its actuarial valuation report for post-employment non-pension benefits. A full valuation report was completed in May 2022 for the 2022 fiscal year, which incorporated a complete review of employee demographics and assumptions. This report also includes forecasted amounts pertaining to the 2023 Test Year.

This actuarial report is presented in Exhibit 4, Attachment 4-1. It is a redacted version in order to exclude information pertaining to Bluewater's affiliates. A discount rate of 4.6% was used in the calculation. The report is prepared in accordance with the International Financial Reporting Standards (IFRS) guidelines, specifically International Accounting Standards (IAS) 19 Employee Benefits.

The OPEB expense accruals from 2013 to 2023 are presented in **Table 26** below. These amounts are from actuarial reports prepared by third party actuary consultants. Bluewater has included these amounts in Appendix 2-K and allocated the cost pro-rata amongst management and non-management as future employee benefits are not broken down by employee category.

**Table 26: OPEB Expense Accrual Amounts**

	MIFRS OEB Approved 2013	CGAAP Actual 2013	CGAAP Actual 2014	MIFRS Actual 2015	Actual 2016	Actual 2017
Current Service Cost	416,877	329,470	172,875	229,454	229,750	254,374
Interest Cost	430,873	443,532	380,893	373,359	393,096	463,804
Benefits Paid	(295,733)	(289,885)	(290,227)	(259,111)	(269,426)	(282,774)
<b>Account 5646 =</b>	<b>552,017</b>	<b>483,117</b>	<b>263,541</b>	<b>343,702</b>	<b>353,420</b>	<b>435,404</b>
	Actual 2018	Actual 2019	Actual 2020	Actual 2021	Bridge Year 2022	Test Year 2023
Current Service Cost	290,490	278,400	240,961	272,154	260,980	173,114
Interest Cost	458,430	496,705	399,844	357,985	390,240	491,386
Benefits Paid	(281,295)	(292,429)	(298,608)	(304,880)	(304,880)	(390,110)
<b>Account 5646 =</b>	<b>467,625</b>	<b>482,676</b>	<b>342,197</b>	<b>325,259</b>	<b>346,340</b>	<b>274,390</b>

Account 5646 'Employee Pensions and OPEB' for the 2023 Test Year OM&A captures the OPEB accrual expense of \$274,390 that is included in this application for ratemaking. This amount is also used in the 2023 PILS model calculation as explained in Exhibit 6.

It is noted that Bluewater is a member of OMERS, thus pension contributions to OMERS is recorded in Account 5645 'OMERS Pensions and Benefits'.

It is also noted that actuarial gains or losses are recorded in Account 7010 'Pension Actuarial Gains or Losses or Remeasurement Adjustment – Other Comprehensive Income', which is specifically excluded from ratemaking.

**4.4.3.4 Summary of Benefits and Pension**

The following table presents a detailed summary of Bluewater's statutory and extended benefit costs, OMERS pension costs, and OPEB accrual costs. It also shows the total amount of these costs that are reduced from OM&A and allocated to capital assets, billable costs and affiliates, to arrive at the total net amount that is included in OM&A for ratemaking. Finally, **Table 27** presents the OMERS and OPEB cost amounts that are allocated to capital assets. All of these amounts are provided for the 2013 OEB approved, 2013 to 2021 actuals, 2022 Bridge Year and the 2023 Test Year.

**Table 27: Benefits and Pension Cost Summary**

Description	MIFRS 2013 OEB Approved	CGAAP 2013 Actual	CGAAP 2014 Actual	MIFRS 2015 Actual
<b>Statutory Benefits</b>				
CPP	228,905	231,522	230,176	253,999
EI	115,681	123,386	120,936	133,003
EHT	162,259	172,026	182,474	199,380
WSIB	77,624	91,731	69,325	95,708
<b>Total Statutory Benefits</b>	<b>584,469</b>	<b>618,665</b>	<b>602,911</b>	<b>682,090</b>
<b>Extended Benefits</b>				
OMERS	806,736	837,133	888,728	940,087
Health	311,297	289,930	283,855	252,182
Dental	124,412	122,503	120,189	109,232
Life Insurance	60,425	50,955	46,954	41,372
LTD	154,698	149,268	127,538	124,995
Other	12,825	16,053	12,816	13,267
<b>Total Extended Benefits</b>	<b>1,470,393</b>	<b>1,465,842</b>	<b>1,480,080</b>	<b>1,481,135</b>
<b>Total Statutory and Extended Benefits</b>	<b>2,054,862</b>	<b>2,084,507</b>	<b>2,082,991</b>	<b>2,163,225</b>
OPEB	552,017	483,117	263,541	343,702
<b>Total Including OPEB</b>	<b>2,606,879</b>	<b>2,567,624</b>	<b>2,346,532</b>	<b>2,506,927</b>
<b>Reduction from OM&amp;A</b>				
Less: allocated to capital assets	(192,044)	(318,442)	(344,711)	(357,145)
Less: allocated to billable costs	(14,192)	(23,314)	(44,155)	(28,151)
Less: allocated to affiliates	(112,886)	(192,379)	(284,012)	(318,092)
<b>Total Reduction from OM&amp;A</b>	<b>(319,122)</b>	<b>(534,135)</b>	<b>(672,878)</b>	<b>(703,388)</b>
<b>Grand Total Included in OM&amp;A</b>	<b>2,287,757</b>	<b>2,033,489</b>	<b>1,673,654</b>	<b>1,803,539</b>
OMERS allocated to capital assets	76,606	136,780	178,750	181,174
OPEB allocated to capital assets	52,418	78,937	50,971	73,319

Description	2016 Actual	2017 Actual	2018 Actual	2019 Actual
<b>Statutory Benefits</b>				
CPP	258,274	273,431	283,094	305,319
EI	135,943	125,692	131,891	134,026
EHT	203,221	222,328	227,370	242,496
WSIB	83,691	88,684	95,878	98,895
<b>Total Statutory Benefits</b>	<b>681,129</b>	<b>710,135</b>	<b>738,233</b>	<b>780,736</b>
<b>Extended Benefits</b>				
OMERS	985,580	1,056,522	1,104,559	1,143,270
Health	269,256	283,129	302,696	330,219
Dental	117,403	124,313	115,951	117,580
Life Insurance	47,015	48,951	50,029	54,729
LTD	140,561	164,941	175,982	186,056
Other	13,373	14,065	14,258	15,213
<b>Total Extended Benefits</b>	<b>1,573,188</b>	<b>1,691,921</b>	<b>1,763,475</b>	<b>1,847,067</b>
<b>Total Statutory and Extended Benefits</b>	<b>2,254,317</b>	<b>2,402,056</b>	<b>2,501,708</b>	<b>2,627,803</b>
OPEB	353,420	435,404	467,625	482,676
<b>Total Including OPEB</b>	<b>2,607,737</b>	<b>2,837,460</b>	<b>2,969,333</b>	<b>3,110,479</b>
<b>Reduction from OM&amp;A</b>				
Less: allocated to capital assets	(380,243)	(407,496)	(440,674)	(603,482)
Less: allocated to billable costs	(26,151)	(38,586)	(46,083)	(79,209)
Less: allocated to affiliates	(279,304)	(308,011)	(311,878)	(338,142)
<b>Total Reduction from OM&amp;A</b>	<b>(685,698)</b>	<b>(754,093)</b>	<b>(798,635)</b>	<b>(1,020,833)</b>
<b>Grand Total Included in OM&amp;A</b>	<b>1,922,039</b>	<b>2,083,367</b>	<b>2,170,698</b>	<b>2,089,646</b>
OMERS allocated to capital assets	195,779	203,206	219,569	296,937
OPEB allocated to capital assets	70,058	83,743	92,957	124,790

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Description	2020 Actual	2021 Actual	2022 Bridge Year	2023 Test Year
<b>Statutory Benefits</b>				
CPP	317,570	345,207	396,784	402,952
EI	131,667	136,132	146,422	155,919
EHT	241,112	238,685	244,231	249,483
WSIB	76,394	76,962	64,326	67,396
<b>Total Statutory Benefits</b>	<b>766,743</b>	<b>796,986</b>	<b>851,763</b>	<b>875,750</b>
<b>Extended Benefits</b>				
OMERS	1,190,346	1,171,712	1,220,574	1,294,318
Health	323,864	310,647	304,703	336,206
Dental	125,610	131,327	134,558	147,232
Life Insurance	54,957	56,594	59,249	65,147
LTD	195,888	217,098	254,714	281,884
Other	12,389	17,768	16,232	17,054
<b>Total Extended Benefits</b>	<b>1,903,054</b>	<b>1,905,146</b>	<b>1,990,030</b>	<b>2,141,841</b>
<b>Total Statutory and Extended Benefits</b>	<b>2,669,797</b>	<b>2,702,132</b>	<b>2,841,793</b>	<b>3,017,591</b>
OPEB	342,197	325,259	346,340	274,390
<b>Total Including OPEB</b>	<b>3,011,994</b>	<b>3,027,391</b>	<b>3,188,133</b>	<b>3,291,981</b>
<b>Reduction from OM&amp;A</b>				
Less: allocated to capital assets	(647,037)	(641,616)	(687,941)	(678,545)
Less: allocated to billable costs	(114,830)	(141,568)	(89,151)	(65,236)
Less: allocated to affiliates	(292,157)	(231,362)	(196,800)	(187,206)
<b>Total Reduction from OM&amp;A</b>	<b>(1,054,024)</b>	<b>(1,014,546)</b>	<b>(973,892)</b>	<b>(930,987)</b>
<b>Grand Total Included in OM&amp;A</b>	<b>1,957,970</b>	<b>2,012,845</b>	<b>2,214,241</b>	<b>2,360,994</b>
OMERS allocated to capital assets	341,738	334,975	359,396	363,481
OPEB allocated to capital assets	101,644	97,376	101,979	77,056



## 4.5 Shared Services and Corporate Cost Allocation

### 4.5.1 Overview

Bluewater Power Corporation is the holding company to Bluewater Power Distribution Corporation and its affiliates. The holding company is the sole shareholder for Bluewater Power Distribution Corporation (referred to in this Application as “Bluewater”), as well as the sole shareholder of the four affiliates described in Exhibit 1, Section 1.3.12 as Electek Power Services Inc. (“Electek”), Bluewater Power Services Corporation (“BPSC”), Bluewater Regional Networks Inc. (“BRNi”) and Bluewater Power Renewable Energy Inc (“RenewCo”). Each of Electek, BPSC and BRNi employ a full-time administrator, as well as appropriate staff and supervisors to deliver the service offerings by the corporations. RenewCo has no staff and simply owns one passive investment in Landfill Gas Generation, as well as holds title to 6 solar projects (5 microFIT solar and 1 FIT solar). Unconquered Sun Solar Technologies Inc. (“USST”) is included in Appendix 2N, but the company was closed permanently in 2021.

Staff and resources are shared from Bluewater to each of Electek, BPSC and BRNi under Cost Sharing Agreements. The Executive, Finance, Human Resource and IT functions are performed by employees of Bluewater under Management Services Agreements with each affiliate. Bluewater shares employees with, and provides services to, its affiliates in order for the utility to benefit from Economies of Scale and thereby control the level of OM&A incurred by the utility to provide services to its customers.

The nature of sharing and the services provided by Bluewater to its affiliates was reviewed by outside consultants, at the request of Bluewater, in advance of the 2013 Rebasing Application. The resulting transfer pricing study was included in the 2013 Rebasing Application<sup>7</sup>. Bluewater continues to rely upon the methodology for transfer pricing set out in that report, and the detailed results of the application of the transfer pricing methodology for shared services is set out in OEB Appendix 2N and described herein.

Bluewater also buys services from its affiliates in order to obtain skills and expertise it does not possess in-house. Those costs are also set out in OEB Appendix 2N and described in detail herein. By way of brief

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<sup>7</sup> EB-2012-0107, Exhibit 4, Tab 5, Schedule 1, Attachment 2

1 summary, Bluewater purchases telecommunication services from BRNi, Hydrovac and civil construction  
2 services from BPSC, and high voltage testing and commissioning from Electek. There are efficiencies  
3 attained from buying these services from a related party, rather than developing the expertise and buying  
4 the equipment in-house.

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6 We will take this opportunity to point out that BPSC became an active entity in 2009, when certain  
7 functions previously undertaken by Bluewater were transferred to BPSC in response to OEB Compliance  
8 Bulletin #200605 regarding non-core distribution activities. Those functions include streetlight and traffic  
9 light services, water billing, water meter installation and maintenance, as well as contracting for civil  
10 construction including HydroVac and miscellaneous on-demand line work outside of Bluewater's  
11 distribution system. It is important to point out that energy services provided by BPSC, or Electek for that  
12 matter, are primarily provided to customers who are not Bluewater distribution customers. For example,  
13 certain large industrial customers may be located within the geographic area of Bluewater's distribution  
14 licence, but they are directly connected to the Hydro One transmission grid. Moreover, protections are  
15 in place to prevent the sharing or use of information as required by the Affiliate Relationships Code.

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17 One final note as background regarding Bluewater's transactions with affiliates is to mention that financial  
18 transactions between Bluewater and its affiliates were also subject to a Regulatory Compliance Audit by  
19 the Regulatory Audit and Accounting division of the OEB over the summer of 2012. The Report resulting  
20 from the Audit was included in the 2013 Rebasing Application<sup>8</sup>. The results of the regulatory compliance  
21 audit were generally favourable in that those items that were noted as non-compliant were relatively  
22 minor in nature and were readily addressed by Bluewater. Bluewater remains compliant as there are  
23 currently no loans from the distribution company to affiliates, and the distribution company does not  
24 provide guarantees in support of affiliate loans.

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<sup>8</sup> EB-2012-0107, Exhibit 1, Tab 2, Schedule 8, Attachment 1

**4.5.2 Affiliate Transactions**

Bluewater is a mid-sized distributor and shares employees with, and provides management services to, affiliates in an effort to benefit from Economies of Scope. Under this model, costs are shared from the distribution company to affiliates that would otherwise form part of the operating cost to be recovered through rates from ratepayers. This section provides the context for OEB Appendix 2-N, which is entitled “Shared Services and Corporate Cost Allocation”. The Appendix is included as part of the Excel model of the OEB Chapter 2 Appendices.

Included in the text below is the quantitative and qualitative variance analysis required by the Filing Guidelines for the years 2013 Board Approved to 2023 Test Year and for 2021 Actuals to 2023 Test Year. In completing OEB Appendix 2-N and the variance analysis, certain assumptions were required and those assumptions are also addressed below under the heading “Assumptions Required”.

In summary, Bluewater’s has proposed with this application to exclude \$1,184,190 of costs that might otherwise form part of the OM&A claimed from ratepayers during the 2023 Test Year. In addition, the affiliates provide revenue (building rent, vehicle rent and Return on Invested Capital (“ROIC”) of Water Billing component of SAP) to Bluewater that serve as Revenue Offsets amounting to \$177,121 during the 2023 Test Year. Finally, as set out in Section 4.5.5, Bluewater shares the cost of its Board of Director’s with affiliates and the amount allocated to affiliates has grown from \$8,056 in 2013 to \$18,031 in 2023. The total effect of these affiliate transactions is a reduction of \$1,379,342 to the overall revenue requirement sought for recovery through this rebasing application

The Economies of Scope proposed with this rate application represent a significant increase over the Economies of Scope proposed in the 2013 Rebasing Application (reduction in Revenue Requirement in 2023 of \$1,379,342 vs. \$558,056 in 2013). Although one would expect an increase due to inflationary pressure, this increase demonstrates the level of success achieved by Bluewater in realizing economies that have been incorporated in this rate application to the benefit of ratepayers. A significant accomplishment to reduce pressure on distribution rates, as well as to provide a variety of work opportunities for employees that help to achieve other objectives related to employee retention discussed in the HR Strategy at Section 4.4.2.4.

Finally, we note for the sake of completeness, that the reduction to OM&A highlighted above as the Economies of Scope does not include what is identified in Appendix 2-N as “Pass Through Costs” totalling an estimated \$95,833 in 2023. Those costs are primarily materials and related costs that are passed through from the distribution company to an affiliate. Those do not reduce the costs that would otherwise be sought for recovery from ratepayers, but those costs are allocated to affiliates with mark-up of 11%, which does contribute a \$10,500 “profit” on those items to the further benefit of ratepayers in this rate application.

#### **4.5.2.1 Background and Allocation approach**

The corporate relationships between Bluewater and its affiliates is explored in Exhibit 1, Section 1.3.12 entitled “Corporate and Utility Organizational Structure”. Bluewater is not a virtual utility; rather, Bluewater employs executive and administrative services to supplement the affiliates which also directly employ administrative and management personnel. Each of Electek and BPSC employ management and supervisors for workflow, as well as office administration staff to carry out day-to-day office management functions. Likewise, BRNi employs a full-time administrator and a sales/customer service person.

In general, Bluewater provides executive and administrative support services to its affiliates through the following departments: Finance, Human Resources, Information Technology, Purchasing, Client Services, Legal and Management. Management Services Agreements and Cost Sharing Agreements have been in place for each affiliate since 2009 and those agreements were modified and updated in 2013 and, again, in 2018. Since 2013, the Management Agreements and Cost Sharing Agreements have been based on allocation practices and methodologies set out in a Transfer Pricing Report conducted by BDR North America Inc. discussed next.

In 2012, Bluewater contracted the services of BDR North America Inc. to review our transfer pricing practices and methodologies. The review took place over several months and resulted in changes to the practices employed by Bluewater to allocate costs to affiliates. The Transfer Pricing Study was undertaken in contemplation of the 2013 COS Application and included therein<sup>9</sup> entitled “Study of Affiliate Services Costs and Cost Allocation” (herein referred to as “Transfer Pricing Study”).

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<sup>9</sup> EB-2012-0107, Exhibit 4, Tab 5, Schedule 1, Attachment 2

The changes in practice identified in 2012 were reflected in revised Management Services Agreements and Cost Sharing Agreements approved on September 27, 2012 to be effective January 1, 2013. Those agreements expired in 2018 and were updated based on the same existing methodologies and approved on November 27, 2018 to be effective on January 1, 2019. Those are the current agreements in place and they are filed in this Application as Attachments 4-2 through 4-10.

**Table 28** and **Table 29** below are excerpted from the Transfer Pricing Study and provided for ease of reference. The first table provides a summary of methodologies utilized in sharing services from Bluewater to affiliates and is entitled “Services Provided by BPDC to Affiliates”. The results of the Transfer Pricing Study, as summarized in the table, indicate that Bluewater’s methodologies are either “reasonable” or “considered appropriate”.

**Table 28: ES:1 Services Provided by BPDC to Affiliates**

(Pricing Policy: Cost-Based)		
Nature of Service	Allocation Method Used	BDR Comment or Recommendation
Executive	Estimated time spent, to affiliates as a group, operating costs to allocate among affiliates	Reasonable. Implementation of a time system or time sampling should continue to be considered.
Functional management	Estimated time spent	Reasonable. Implementation of a time system or time sampling should continue to be considered.
Finance services other than payroll	Estimated time spent	Reasonable. Continue to consider logging of time on a sample basis.
Insurance premiums	Directly identified	Considered appropriate
Payroll	Estimated time spent for one internal staff; all other payroll services are	Considered appropriate

(Pricing Policy: Cost-Based)		
Nature of Service	Allocation Method Used	BDR Comment or Recommendation
	outsourced separately by each affiliate.	
Call centre labour	Number and duration of calls	Considered appropriate
Meter reading	Conducted outside of BPDC, no allocation necessary	Considered appropriate
Cashier labour	Meter reads	Considered appropriate
Stationery and consumables for billing	Analysis of paper use	Considered appropriate
Bill mailing, envelopes and postage	Analysis of envelope contents	Considered appropriate
Billing Administration	Included in the time estimates of related staff	Considered appropriate
Building	Occupied square footage	Considered reasonable
Human Resources	Specific identification and costing of initiatives, time estimate for staff	Considered appropriate
IT Labour	Specific identification and costing of initiatives, time estimate for staff	Considered appropriate
SAP Expenses	Number of users	Considered appropriate
SAP Capital	Specific identification of capital programs and allocation proportionate with employee activity	Considered appropriate

(Pricing Policy: Cost-Based)		
Nature of Service	Allocation Method Used	BDR Comment or Recommendation
Work Stations and Communications Equipment	Number of work stations	Considered appropriate
Procurement	Time estimates of staff	Considered appropriate
Stocking	Value of goods	Considered appropriate
Warehouse services	Square footage of warehouse space	Considered appropriate
Vehicle usage	Standard hourly rates, recorded time used	Considered appropriate
Shared employees	Hourly rate applied to time estimated or scheduled	Considered appropriate

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2 The Transfer Pricing Study also reviewed methodologies utilized in procuring services from affiliates. The  
3 table provided below is excerpted from the Transfer Pricing Study and is entitled “Services Procured by  
4 BPDC from Affiliates” and is reproduced for ease of reference. The results of the Study with respect to  
5 those activities, as summarized in the table, indicate that the methodologies are “considered appropriate”  
6 (or “acceptable” in the case of meter-reading services for which market-based pricing cannot be  
7 determined due to the unique nature of the on-demand services required). The nature of services  
8 procured from affiliates remains largely unchanged since 2013.

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**Table 29: ES:2 Services Procured by BPDC from Affiliates**

Nature of Service	Pricing Method Used	BDR Comment or Recommendation
Administration and implementation of C&DM programs	Market rates determined by comparison with the results of a competitive tendering process.	Considered appropriate
Civil, construction and related miscellaneous service on demand	Consistent rates that are automatically benchmarked against the competitive market by the provision that allows developers to obtain alternative bids.	Considered appropriate
Meter reading for non-smart-metered customers	Fully allocated cost based on estimate of time spent	Allocation method is acceptable, since market pricing cannot be obtained.
High voltage maintenance and commission work on a demand basis.	Same rates as that charged to arms' length clients, therefore market rates	Considered appropriate
Use of vacuum truck	Same or lower rates as those charged to arms' length clients—therefore no more than market rates	Considered appropriate

#### 4.5.2.2 Appendix 2-N Introduction

OEB Appendix 2-N provides all transactions between Bluewater and its affiliates over the period from 2013 to 2023. In all cases for services provided from Bluewater to affiliates, the “price for the service” is the same as the “cost for the Service” where the pricing methodology was indicated as “fully allocated cost”. The only services that are listed in the appendix as “market value” relate to building rent and, given the cost of capital for buildings is comparable to the cost of capital for a utility, we have also set the “cost for the service” as the “price for the service” in the table below.

The completion of OEB Appendix 2-N required certain assumptions as follows:

- Any comparison with 2013 Approved presents a challenge because the approved amount was the result of a settlement reached with Intervenor and approved by the Board. However, there was no specific settlement on any one cost. Therefore, for the purpose of the analysis of Shared Costs



and Corporate Allocations we have assumed that the amounts applied for in the 2013 COS Application were not affected by the settlement. In other words, the “2013 Approved” in Appendix 2-N is the amount applied for with the 2013 COS Application

- We also note that capital work undertaken by affiliates on behalf of Bluewater for the 2013 Approved and 2023 Test Year are estimates. The annual capital budget is set without consideration of who will undertake the work, and whether the work is undertaken by an affiliate or a third party has no impact on overall cost. However, for the purpose of this analysis we have assumed a reasonable level of capital work by affiliates for Bluewater as follows:

- 2013 Approved: For all charges from affiliates to Bluewater, the amounts for 2013 Approved were set at reasonable levels in the original filing, and that is replicated here
- 2023 Test Year: For all charges from affiliates to Bluewater, likewise the amounts for 2023 Test Year have been set as reasonable estimates based on prior years, excluding extraordinary projects.

#### **4.5.2.3 Reconciliation between 2-N and Other Revenue**

Bluewater has confirmed the values presented in OEB Appendix 2-N related to affiliate revenue correspond to the values presented as Other Revenue in Exhibit 6 as outlined in **Table 30** below.

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**Table 30: Reconciliation between 2-N and Other Revenue**

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	OEB Account	2013 OEB Approved	2013	2014	2015	2016	2017
<b>Building Rent 2-N</b>		<b>17,200</b>	<b>17,200</b>	<b>18,400</b>	<b>18,402</b>	<b>19,281</b>	<b>20,848</b>
per Other Revenue	<b>4210</b>		17,200	18,400	18,402	19,281	20,848
Variance			-	-	-	-	-
<b>Vehicle Rent 2-N</b>		<b>50,176</b>	<b>107,163</b>	<b>111,467</b>	<b>178,894</b>	<b>173,761</b>	<b>121,646</b>
per Other Revenue	<b>4210</b>		107,163	111,467	178,894	173,761	121,646
Variance			-	-	-	-	-
<b>Water ROIC 2-N</b>		<b>55,402</b>	<b>55,402</b>	<b>55,404</b>	<b>55,404</b>	<b>55,402</b>	<b>56,510</b>
Per Other Revenue	<b>4210</b>		55,402	55,404	55,404	55,402	56,510
Variance			-	-	-	-	-
<b>Make ready work &amp; Joint Pole 2-N</b>						<b>59,183</b>	<b>108,389</b>
Joint Pole Other Revenue	<b>4210</b>						1,676
Joint Pole Deferral Account	<b>150820</b>						
Joint Pole Miscellaneous revenue	<b>4235</b>						
Make ready work (billable revenue)	<b>4325</b>					59,183	106,713
<b>Total Other Revenue</b>			<b>179,765</b>	<b>185,271</b>	<b>252,700</b>	<b>307,627</b>	<b>307,393</b>
<b>Total Cost transfers</b>			<b>885,692</b>	<b>924,420</b>	<b>1,343,441</b>	<b>1,333,869</b>	<b>1,358,718</b>
<b>Total per 2-N</b>		<b>550,090</b>	<b>1,065,457</b>	<b>1,109,691</b>	<b>1,596,141</b>	<b>1,641,496</b>	<b>1,666,111</b>

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	OEB Account	2018	2019	2020	2021	2022	2023
<b>Building Rent 2-N</b>		<b>21,268</b>	<b>21,693</b>	<b>22,128</b>	<b>22,570</b>	<b>23,022</b>	<b>23,482</b>
per Other Revenue	<b>4210</b>	21,268	21,693	22,128	22,570	23,022	23,482
Variance		-	-	-	-	-	-
<b>Vehicle Rent 2-N</b>		<b>141,467</b>	<b>168,209</b>	<b>112,835</b>	<b>90,945</b>	<b>73,300</b>	<b>90,000</b>
per Other Revenue	<b>4210</b>	141,467	168,209	112,835	90,945	73,300	90,000
Variance		-	-	-	-	-	-
<b>Water ROIC 2-N</b>		<b>57,640</b>	<b>58,793</b>	<b>59,969</b>	<b>61,167</b>	<b>62,391</b>	<b>63,639</b>
Per Other Revenue	<b>4210</b>	57,640	58,793	59,969	61,167	62,391	63,639
Variance		-	-	-	-	-	-
<b>Make ready work &amp; Joint Pole 2-N</b>		<b>66,843</b>	<b>49,797</b>	<b>61,349</b>	<b>33,864</b>	<b>26,452</b>	<b>27,244</b>
Joint Pole Other Revenue	<b>4210</b>	10,437	15,332	15,511	17,008	17,008	27,244
Joint Pole Deferral Account	<b>150820</b>	894	14,598	15,372	16,856	9,444	
Joint Pole Miscellaneous revenue	<b>4235</b>	5,314	349	2,982			
Make ready work (billable revenue)	<b>4325</b>	50,198	19,518	27,485	-	-	-
<b>Total Other Revenue</b>		<b>286,324</b>	<b>283,894</b>	<b>240,909</b>	<b>191,690</b>	<b>175,721</b>	<b>204,365</b>
<b>Total Cost transfers</b>		<b>1,321,189</b>	<b>1,380,178</b>	<b>1,403,576</b>	<b>1,327,139</b>	<b>962,002</b>	<b>1,280,022</b>
<b>Total per 2-N</b>		<b>1,607,513</b>	<b>1,664,072</b>	<b>1,644,485</b>	<b>1,518,829</b>	<b>1,137,723</b>	<b>1,484,388</b>

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2 **4.5.3 Variance Analysis for Shared Services**

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4 The Filing Guidelines require the completion of OEB Appendix 2-N, as well as a variance analysis for 2013

5 Approved to the 2023 Test Year and for 2021 Actuals to the 2023 Test Year. The same assumptions

6 necessary to complete OEB Appendix 2-N are required, as this variance simply reflects a subset of the data

7 presented in OEB Appendix 2-N. We have provided **Table 31** with costs only, and the variances are

8 discussed below by service type for services provided by Bluewater to affiliates, and then by affiliate for

9 services purchased by Bluewater from affiliates.

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**Table 31 : Variance Analysis for Shared Services**

Name of Company		Service Offered	Pricing Methodology	2013 Approved - Price for the Service	2021 - Price for the Service	2023 - Price for the Service
From	To			\$	\$	\$
<i>Distco</i>	<i>BPRI</i>	management services	fully allocated cost	13,915	4,750	4,845
<i>Distco</i>	<i>Genco</i>	management services	fully allocated cost	2,386	-	-
<i>Distco</i>	<i>BRNI</i>	management services	fully allocated cost	-	36,986	52,481
<i>Distco</i>	<i>BPSC</i>	management services	fully allocated cost	108,624	138,652	158,254
<i>Distco</i>	<i>Electek</i>	management services	fully allocated cost	62,012	136,693	160,338
<i>Distco</i>	<i>USST</i>	management services	fully allocated cost	-	-	-
			<b>Sub-Total</b>	<b>186,937</b>	<b>317,081</b>	<b>375,917</b>
<i>Distco</i>	<i>BPSC</i>	Fleet	fully allocated cost	-	15,965	16,610
<i>Distco</i>	<i>Electek</i>	Fleet	fully allocated cost	-	6,140	6,388
<i>Distco</i>	<i>BPRI</i>	Fleet	fully allocated cost	-	-	-
			<b>Sub-Total</b>	<b>-</b>	<b>22,105</b>	<b>22,998</b>
<i>Distco</i>	<i>BRNI</i>	building rent	market value	-	2,559	2,662
<i>Distco</i>	<i>BPSC</i>	building rent	market value	17,200	20,011	20,820
			<b>Sub-Total</b>	<b>17,200</b>	<b>22,570</b>	<b>23,482</b>
<i>Distco</i>	<i>BPSC</i>	vehicle rental	Fully allocated cost	50,176	90,945	90,000
			<b>Sub-Total</b>	<b>50,176</b>	<b>90,945</b>	<b>90,000</b>
<i>Distco</i>	<i>BPSC</i>	Water ROIC	fully allocated cost	55,402	61,167	63,639
<i>Distco</i>	<i>BPSC</i>	Water Billing costs	fully allocated cost	123,885	174,550	181,601

			<b>Sub-Total</b>	<b>179,287</b>	<b>235,717</b>	<b>245,240</b>
<i>Distco</i>	<i>BPSC</i>	Pass Through Costs	fully allocated cost	-	11,304	7,962
<i>Distco</i>	<i>Electek</i>	Pass Through Costs	fully allocated cost	-	115,858	87,871
<i>Distco</i>	<i>BRNI</i>	Make ready work & Joint Pole	fully allocated cost	-	33,864	27,244
			<b>Sub-Total</b>	<b>-</b>	<b>161,026</b>	<b>123,077</b>
<i>Distco</i>	<i>BPSC</i>	Shared Staff	fully allocated cost	76,816	504,819	550,673
<i>Distco</i>	<i>Electek</i>	Shared Staff	fully allocated cost	5,106	113,650	-
<i>Distco</i>	<i>BRNI</i>	Shared Staff	fully allocated cost	-	50,916	53,000
<i>Distco</i>	<i>BPRI</i>	Shared Staff	fully allocated cost	34,568	-	-
			<b>Sub-Total</b>	<b>116,490</b>	<b>669,385</b>	<b>603,673</b>
<b>Total</b>				<b>550,090</b>	<b>1,518,829</b>	<b>1,484,388</b>
BPSC	Distco	Capital - Other	market value	78,278	276,401	315,157
BPSC	Distco	Capital - New Connections	market value	121,722	326,635	247,333
BPSC	Distco	Repair & Maintenance Work	market value	90,000	97,279	133,981
BPSC	Distco	Pass Through Costs	market value	175,000	159,075	186,107
BPSC	Distco	OPA-CDM programs	market value	50,000	-	-
			<b>Sub-Total</b>	<b>515,000</b>	<b>859,390</b>	<b>882,578</b>
Electek	Distco	Capital	market value	30,000	75,432	79,947
Electek	Distco	Repair & Maintenance Work	market value	25,000	116,657	121,328
Electek	Distco	Pass Through Costs	market value	-	13,014	4,284
			<b>Sub-Total</b>	<b>55,000</b>	<b>205,103</b>	<b>205,558</b>

BRNI	Distco	Internet & Dark Fibre	market value	-	69,345	75,254
BRNI	Distco	Meter Communications	market value	-	109,020	115,200
			<b>Sub-Total</b>	-	<b>178,365</b>	<b>190,454</b>
USST	Distco	Repair & Maintenance Work	market value			
			<b>Sub-Total</b>	-	-	-
<i>Total</i>				<b>570,000</b>	<b>1,242,858</b>	<b>1,278,591</b>
<i>Net Total</i>				<b>(19,910)</b>	<b>275,971</b>	<b>205,797</b>

#### 4.5.3.1 Management Services

Management services are provided by Bluewater to each of the affiliates and costs are allocated from the distribution company to each affiliate in accordance with the terms of the Management Services Agreement for each affiliate. The allocated costs include a Base Management Fee, as well as additional charges for project-specific work.

The 2013 Board Approved amount included a forecast of cost allocated to affiliates for management services in the amount of \$186,937 for the year 2013. The fees for management services grew to \$317,081 in the year 2021 Actuals. That represented a 70% increase in management fees driven primarily by (1) Electek management fees included special project cost of \$22,000 and a general increase in management services provided to Electek over that eight-year period; and (2) the addition of a new affiliate, BRNi, created additional demand for approximately \$37,000 in management services from Bluewater. We note that between 2013 and 2021, opportunities for investments in renewable generation had subsided, which led to the decision to devote less effort in those areas and to merge the two companies previously involved in such opportunities (Genco and BPRI were merged into BPRI), with the result of reducing management services provided to affiliates by approximately \$10,000.

The forecast costs allocated to affiliates has been set to increase again in 2023 to \$375,917. This represents a further 19% increase in management services over 2021 Actuals, for a cumulative increase

of 101% from 2013 to 2023. The further increase in 2023 is primarily explained by an increase in the forecast of management time charged for Special Projects. The year 2023 represents a forecast, and there are no specific special projects contemplated; therefore, the forecast increase is distributed proportionately amongst the three operating affiliates, being Electek, BPSC and BRNi.

It is worth highlighting here again that the upward trend in management services charged to affiliates represents a tangible example of the success of Bluewater's Economies of Scope approach to managing costs. The number of affiliates has increased by one from 2013 to 2023, and the lines of business within those affiliates has further increased, which drew upon management within Bluewater and created the opportunity for an additional management costs to be shared with affiliates, thereby reducing costs sought to be recovered from ratepayers.

#### **4.5.3.2 Building Rent**

BPSC rents office space and storage space from Bluewater and those amounts are recorded as revenue for Bluewater. The 2013 Board Approved amount includes rent that was estimated to have a market value of the space in the amount of \$17,200. The amount charged increased in 2021 Actual by \$2,559 with the addition of BRNi, with all other increases to 2021 Actual and 2023 reflective of inflation.

#### **4.5.3.3 Vehicle Rent**

BPSC rents vehicles owned by Bluewater from time to time as required and the amounts paid in rent is recorded as revenue for Bluewater. The actual hours are tracked to a work order system and a standard hourly charge is applied which includes fuel, license, insurance, maintenance, depreciation and cost of capital. This hourly charge is calculated by taking the fully allocated cost of the vehicles divided by their estimated usage in a year. The increase from \$50,176 in the 2013 Board Approved to \$90,945 in the 2021 Actuals reflects the increase in the level of work undertaken by BPSC. We have assumed a consistent level of demand in 2023 with projected allocated costs at \$90,000.

#### **4.5.3.4 Water – Return on Invested Capital (ROIC)**

The Return on Invested Capital (ROIC) for Water represents the return to ratepayers for that portion of the Bluewater billing system determined to be related to the water billing function. These amounts are

recorded as revenue for Bluewater. The 2013 Approved amount included the amount of \$55,402 for ROIC. That revenue to Bluewater from the affiliate grew to \$61,167 in 2021 Actuals based on the revised calculation included in the update to the Cost Sharing Agreement between Bluewater and BPSC in 2018. The increase from 2021 Actuals to 2023 represents an inflationary increase as required by the Cost Sharing Agreement.

#### **4.5.3.5 Water Billing Costs**

BPSC has been providing water billing services to municipalities in our service territory since 2011. BPSC employs one full-time billing person dedicated solely to water billing, as well as all required meter readers. BPSC relies on shared staff from Bluewater to deliver its services such as customer service and credit, and those costs are allocated as part of the water billing costs. The other costs allocated to BPSC for water billing include Hard Costs such as envelopes, paper, and postage. These costs were evaluated as part of the Transfer Pricing Study in 2012 and incorporated as "Water Billing Cost" in the Cost Sharing Agreement between Bluewater and BPSC.

The costs allocated to BPSC for Water Billing in 2013 Board Approved amounted to \$123,885. Those costs increased to \$174,550 in 2021 Actuals driven by inflationary increases, as well as a one-time bump of approximately \$25,000 primarily related to Hard Costs. The increase to \$181,601 in 2023 represents an inflationary increase as required by the Cost Sharing Agreement. We should note that beginning in 2018 and continuing to today, there is an additional ½ FTE in cost related to a Customer Service Employee providing water related services. This cost was identified by Bluewater management as an additional cost not already included in the Cost Sharing Agreement for water billing, so an additional ½ FTE was allocated to BPSC as shared staff (which is reflected in the shared staff line in Appendix 2N, rather than in the Water Billing line). The expectation was that it would be a temporary cost, but the demand for the additional ½ FTE has continued.

#### **4.5.3.6 Make Ready Work & Joint Pole**

BRNi is the telecommunication affiliate to Bluewater established in 2016. As a telecommunication company operating in the Bluewater service territory, it is subject to the same obligation to pay for Make Ready work; that is, work required to upgrade the distribution company's poles in order to accommodate



the attachment of telecommunications equipment. Likewise, once attached to our poles, those attachments are subject to the same Joint Pole fee as all telecommunication providers.

BRNi was not in operation until 2016, hence the value of Make Ready Work & Joint Pole was \$0 in the 2013 Board Approved. The amount in 2021 Actuals was \$33,864 which was entirely related to pole attachment fees as BRNi had completed its initial build by the year 2020, with the peak of construction having taken place during the period from 2016 to 2018. The reduction from 2021 to 2023 to \$27,244 reflects the reduction in the OEB approved pole attachment fee from \$44.50 to \$33.65 per pole.

#### **4.5.3.7 Pass Through Costs**

The costs allocated from Bluewater to affiliates under the heading Pass Through Costs relate primarily to materials that are pulled from inventory of Bluewater and sold to affiliates. The costs in this category do not represent an allocation of cost that would otherwise form part of OM&A to be recovered from ratepayers, therefore, the level of forecast costs has no impact on this rate application. The forecast cost for 2023 is provided for information only and is provided as a forecast based on previous levels of demand.

#### **4.5.3.8 Shared Staff**

In order to optimize efficiencies, Bluewater shares staff with affiliates as required. The majority of shared staff are operations and engineering staff performing work for third-parties; accordingly, the majority of any variance from year-to-year is based on demand from such third parties. The nature of shared employees is summarized below by the affiliate receiving the shared employee:

**BPSC:** This affiliate provides construction, repair and maintenance services to privately owned electricity distribution systems primarily being large petrochemical companies or renewable energy facilities. In order to comply with Section 71 of the *Ontario Energy Board Act* and to shield the distribution company from liability, this service is delivered to customers through BPSC utilizing shared employees from Bluewater. The shared employees are primarily Powerline Technicians, but also includes engineering technicians and supervisors. Shared staff costs are allocated based on actual time docketed on time sheets and the fully-allocated cost.

**Electek:** This affiliate provides highly technical services to privately owned electricity distribution systems primarily being large petrochemical companies or renewable energy facilities. The shared employees from Bluewater are generally Powerline Technicians shared for a fixed-term and allows the individual employees to gain valuable experience. The costs are shared on a fully-allocated costs basis.

**BRNi:** This affiliate operates a regional telecommunication service that is managed by third-party service providers, but local services are performed in part by shared staff from Bluewater. The costs are allocated based on an estimate of time and calculated on a fully-allocated cost basis.

The 2013 Board Approved amount for all such shared staff was \$116,490 and represented a forecast of demand for shared employees from Bluewater. The 2021 Actuals show costs allocated to affiliates for shared staff had increased to \$669,385 and this variance is explained as (1) BRNi did not exist in 2013 so this represented a new shared cost of \$50,916, (2) an employee chose to be assigned to Electek for the entire year in order to gain experience, which resulted in a shared cost being allocated to the affiliate in the amount of \$113,650, (3) BPSC experienced a busy year compared to the forecast light demand in the year 2013.

The 2023 forecast of \$603,673 for shared staff represents a slight reduction over 2021 Actuals driven by the fact that the employee placed with Electek has returned to Bluewater and no employees are forecast to seek experience with Electek in 2023. This decrease of \$113,650 is offset by an increase in forecast demand from BPSC for shared employees in the amount of \$45,854 and an increase in forecast demand from BRNi for shared employees in the amount of \$2,084.

#### **4.5.4 Variance Analysis for Purchased Services**

The Transfer Pricing Study included a summary table, provided above as **Table 2** entitled “ES-2 Services Procured by BPDC from Affiliates”, that describes the pricing methodology for services purchased by Bluewater from affiliates. The methodology for each service is based on market price, and the unit prices charged by affiliates to Bluewater have remained stable, as well as consistent with rates charged by the affiliate to third-parties over the period since the 2013 Rebasing Application. Therefore, the driver of the annual variances reflects changes in the level of demand for work.

For the purposes of this variance analysis, we note that the 2013 Approved are the allocations built into the rate application, on which we achieved a settlement. There was no specific settlement on these values as the settlement was based on an envelop reduction, so the numbers included in the variance analysis chart are “as applied for” which was described in the 2013 Rebasing Application as a reasonable forecast based on conditions at the time. The 2021 column represents actual purchases of services from affiliates. The 2023 Test Year is a forecast based on a reasonable forecast derived from experience in prior years, not including extraordinary events.

#### **4.5.4.1 Variance Analysis of Purchased Services from BPSC**

Bluewater does not own civil construction equipment or employ civil labourers. Accordingly, Bluewater contracts BPSC to provide civil construction services as part of Capital Work and Repair & Maintenance Work on an as needed basis. Bluewater also utilises BPSC to perform streetlight installs on behalf of developers of subdivisions, which is a pass-through cost for Bluewater. We will discuss each heading from **Table 31** separately below.

**Capital Work – New Connections:** BPSC provides civil services to install duct and lay wire for Commercial Developments, Subdivisions and individual residential properties. In each case, the work performed by BPSC is “contestable work”, meaning the customer has the option to hire its own civil contractor to carry out the services. We also note that the work performed in Subdivisions represents a shared cost between Bluewater and other utilities (generally Bell and Cogeco) and unit costs are negotiated in advance each year. Therefore, in all such cases, the market price for the services provided by BPSC is tested against the market by virtue of being accepted as reasonable by arms-length third parties. The variance from year-to-year reflects demand for New Connections. The growth in spending of approximately 250% from 2013 Approved (\$121,722) to 2021 Actual (\$326,635) is generally consistent with the 170% growth in the New Connections Budget item over that same period. The amount forecast for 2023 (\$247,333) is lower than 2021 Actuals, but that forecast impacts capital only and there is no impact on Revenue Requirement whether that work is performed by third parties or an affiliate.

**Capital Work – Other:** The nature of the capital work performed directly for Bluewater consists of civil work for the installation of underground vaults, Hydrovac excavation for the installation of new poles, and the laying of conduit and wire. The variances from year to year are driven by the extent and nature of

capital work conducted by Bluewater in any given year, which dictates the demand for services of the nature that BPSC provides. The amount included in 2013 Approved (\$78,278) reflected a level of demand typical at that time based on the capital budget at the time. The 2021 Actual results demonstrates that the need for services increased to \$276,401 which is generally consistent with an increase of approximately 170% in Operations Capital budget (Project ID# UT1 to UT80), but also the industry trend toward Hydrovac excavators (rather than traditional auger hole digger) given limited space for utilities in the boulevard of roadways in urban areas. The forecast for 2023 is a modest increase to \$315,157.

**Repair and Maintenance Work:** Bluewater contracts BPSC to conduct repair and maintenance work on Bluewater equipment and facilities on an as needed basis. As a general-rule, BPSC provides Bluewater with its on-demand civil excavation work. In addition to civil excavation, BPSC provides on an as-needed basis general repair and maintenance in the nature of civil work for Bluewater's facilities such as sub-stations. The variances in Table 31 demonstrates relatively stable spending over the period, with \$90,000 forecast in 2013 Approved, 2021 Actuals of \$97,279 and forecast spending in 2023 of \$133,981.

**Pass Through Costs:** The nature of costs described as "Pass Through Costs" charged by BPSC to Bluewater relate to civil work in support of billable work undertaken by Bluewater (Motor Vehicle accidents, electrical infrastructure improvements paid for by customers as billable work, such as the Oversize Load Corridor), as well as the installation of new street lighting facilities in new sub-divisions. These costs are described as pass-through because 100% of the cost paid to BPSC is paid by third parties through Bluewater. The level of work is entirely driven by demand and, therefore, the primary explanation of any variances is the level of demand. The costs have been relatively stable in the relevant years, with \$175,000 in 2013 Approved, \$159,075 in 2021 Actuals and \$186,107 forecast for the 2023 Test Year.

**CDM Programs:** The cancellation of the Conservation and Demand Management Framework had a significant impact on Bluewater as the utility was forced to restructure in the face of substantially reduced funding. At the same time, BPSC had been delivering a limited number of programs on behalf of Bluewater. That is represented by the cost charged by BPSC to Bluewater in the amount of \$50,000 in 2013 Approved. There were no costs in 2021 Actuals and none forecast in 2023 due to the cancellation of the Conservation First Framework.

**4.5.4.2 Variance Analysis of Purchased Services from Electek**

The pricing methodology for services procured by Bluewater from Electek is market price. Bluewater does not have a “Substation” department and has relied upon Electek to provide those highly specialized services as it is the only local supplier of these services (NOTE: Bluewater has relied upon Electek prior to the purchase of Electek by Bluewater Corporation in 2007). In fact, Electek is the primary provider of Substation-type services for industry in Sarnia, and the price charged by Electek to Bluewater is the same hourly rate charged to third-party customers. The nature of services for Bluewater fall into the categories of Capital, Repair and Maintenance, or Pass-through discussed below.

**Capital:** Bluewater utilizes Electek to conduct capital work. The nature of the work typically consists of upgrades and commissioning of large transformers and sub-stations. Annual variance is driven by the amount and nature of capital work conducted by Bluewater. The amounts shown in **Table 31** demonstrates relatively low forecast in 2013 Approved at \$30,000, followed by stable spending of \$75,432 in 2021 Actuals and \$79,947 forecast in 2023.

**Repair & Maintenance:** Bluewater utilises Electek to conduct repair and maintenance work on an as needed basis, such as transformer maintenance and sub-station maintenance. Variances year over year are attributable to the unique nature of the work performed by Electek and the need for this work based on demand. The amounts shown in **Table 31** demonstrates relatively low forecast in 2013 Approved at \$25,000, followed by stable spending of \$116,657 in 2021 Actuals and \$121,328 forecast in 2023.

**Pass Through Costs:** Bluewater calls upon Electek from time-to-time to assist with projects requested by customers that require the specialized skills of Electek. These requests are not common, which is reflected by the forecast in 2013 Approved of \$0, the amount of \$13,014 in 2021 Actuals and the forecast of \$4,284 in 2023.

**4.5.4.3 Variance Analysis of Purchased Services from BRNi**

Bluewater had purchased telecommunication services from third parties until the year 2016, when reliability of supply and adequacy of service became an issue. Bluewater was unable to upgrade to fibre optic connection through its then current suppliers, so BRNi was created in part to meet the growing

telecommunication needs of Bluewater. The pricing methodology for services procured by Bluewater from BRNi is market price. The types of services acquired from BRNi can be divided into two categories, being Internet connectivity and cellular data services.

**Internet:** Bluewater moved to the BRNi fibre network in 2017, with a total cost increase over the prior service providers of approximately \$33,000. This represented a reasonable cost increase for a significant increase in the speed and reliability of service. Since 2017, Bluewater has expanded its demand for fibre services as the demands of technology have increased. The total cost in 2021 Actuals is \$69,345 and has grown marginally to \$75,254 in the 2023 forecast.

**Cellular Data Services:** Bluewater undertook a project to add LTE cellular service for interval meters now required by the OEB for GS>50kW customers. At the time of deployment, Bluewater generally purchased LTE services through the Roger's network, but turned to BRNi for a solution on the Bell network. BRNi was able to provide services through a wholesale arrangement with Bell at a price that is approximately 12% lower than the price paid by Bluewater to Rogers. The customised solution provided by BRNi delivers connectivity at a fixed price per connection, whereas the Roger's offering is based on fixed price plus a variable data charge. As contracts expire with Rogers, if the Bell network is able to provide coverage, Bluewater will look to migrate cellular services to BRNi in order to enjoy cost savings. The total cost of Meter Communications in 2021 Actuals was \$109,020 and has grown marginally to \$115,200 in the 2023 forecast.

#### ***4.5.5 Corporate Cost Allocation for Board of Directors Costs***

Provided below in **Table 32** is a summary of the results of Corporate Cost Allocations related to Board of Director Costs incurred by Bluewater and allocated to affiliates. The Transfer Pricing Study undertaken in 2012 identified the lack of allocation of these costs as a deficiency in Bluewater's transfer pricing methodology. Accordingly, for the 2013 Test Year, Board of Director costs (being annual fees, meeting fees and Director and Officer Liability expenses) are allocated to affiliates based on the relative size of each affiliate company determined by the average of Gross Revenue and Fixed Assets. That methodology was incorporated into the Management Services Agreements and continues to this day. The growth in the allocation amount reflects the addition of new affiliates since 2013 and increases in overall Board of Director costs.

**Table 32: Board of Director Costs**

Name of Company		Service Offered	Pricing Methodology	2013 Amount Allocated	2021 Amount Allocated	2023 Amount Allocated
From	To					
				\$	\$	\$
<i>Distco</i>	<i>Genco</i>	Board of Directors		106	-	-
<i>Distco</i>	<i>BRNI</i>	Board of Directors		-	1,656	1,723
<i>Distco</i>	<i>BPRI</i>	Board of Directors		4,409	250	250
<i>Distco</i>	<i>BPSC</i>	Board of Directors		2,036	7,494	7,797
<i>Distco</i>	<i>Electek</i>	Board of Directors		1,505	7,942	8,263
				<b>8,056</b>	<b>17,342</b>	<b>18,033</b>

#### **4.5.6 Non-Affiliate, One-Time, Regulatory Costs**

#### **4.5.7 Purchases of Non-Affiliate Services**

This schedule speaks to Bluewater's practices with respect to purchases from non-affiliated suppliers. The first section provides background on Bluewater's Purchasing Department and procurement practice. The second section speaks to purchases from non-affiliated suppliers that do not comply with purchasing practices or rely upon exemptions set out therein.

#### **Background:**

Bluewater's supply of goods and services flow through the utility's Purchasing Department, also known as Materials Management. Purchasing is responsible for two distinct functions – sourcing of goods/services and maintenance of inventory/stock.

The first function of the Purchasing Department relates to the acquisition of goods and services where the Purchasing Department is acting as the sourcing agent on behalf of other departments in the utility.

Under this scenario, the process is initiated by the department requiring the good or service through the issuance of a Purchase Requisition. Once the requisition is approved in accordance with the company's Procurement Manual, the sourcing is undertaken by the Purchasing Department as a Request for Expression of Interest, Request for Quote, or Request for Proposal.

In carrying out the sourcing function, the Purchasing Department is responsible for developing the sourcing documents and selecting the successful bidder. For large purchases (i.e. Smart Meters or a Bucket Truck), the department responsible for requisitioning the purchase is directly involved in both developing the sourcing documents and selecting the successful vendor. Generally speaking, any large purchase is overseen by a team that is established to independently and objectively select the successful vendor.

The second function for the Purchasing Department relates to the maintenance of inventory for stock items. In carrying out this function, the Purchasing Department works closely with the Engineering Department and Operations Department to ensure all acquisitions and existing inventory meet Bluewater's Engineering Standards. The Purchasing Department also actively participates in regular planning meetings with the Engineering and Operations groups to ensure that adequate levels of inventory are available to meet all current and future needs.

In carrying out the function of maintaining inventory, the Purchasing Department works closely with qualified vendors. In carrying out the function of sourcing goods and services requested by other departments, the Purchasing Department works with qualified vendors as well as new vendors identified through the requisition process. In all cases, the purchasing function is undertaken in accordance with the purchasing policy as represented in Bluewater's Procurement Manual.

A copy of the Procurement Manual is included as Attachment 4-11.

**Confirmation of Compliance:**

Bluewater confirms that its non-affiliate purchases are in compliance with the Procurement Manual. We can further confirm that the Procurement Manual does not contemplate exceptional circumstances that



do not require compliance with the manual; therefore, there were no purchases over the materiality threshold that were undertaken pursuant to exceptions contemplated by the Procurement manual.

#### **4.5.8 One-Time Costs**

With the exception of costs related to the preparation of this Cost of Service rate application, Bluewater is not proposing to recover any other one-time costs in this Application. The costs related to the preparation of this rate application are discussed in Section 4.6.3 below and are proposed to be amortized over a five year period.

#### **4.5.9 Regulatory Costs**

Bluewater is proposing costs related to regulatory matters that are separated between on-going and one-time regulatory costs. OEB Appendix 2-M has been completed, and is provided below as **Table 33**.

**Table 33: OEB Appendix 2-M Regulatory Costs**

Regulatory Cost Category	USoA Account	USoA Account Balance	Last Rebasng Year (2013 OEB Approved)	Last Rebasng Year (2013 Actual)	Most Current Actuals Year 2021	2022 Bridge Year	Annual % Change	2023 Test Year	Annual % Change
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)=[(G)-(F)]/(F)	(I)	(J) = [(I)-(G)]/(G)
<b>Regulatory Costs (Ongoing)</b>									
1 OEB Annual Assessment	5655		126,203	114,929	130,999	155,493	18.70%	161,971	4.17%
2 OEB Section 30 Costs (OEB-initiated)	5655		4,000	4,028	6,377	6,378	0.02%	6,379	0.02%
3 Expert Witness costs for regulatory matters									
4 Legal costs for regulatory matters	5655		4,780	15,761	8,350	0	-100.00%	5,000	
5 Consultants' costs for regulatory matters	5655		9,560	2,875	40,622		-100.00%	10,000	
6 Operating expenses associated with staff resources allocated to regulatory matters	5655		92,337	98,790	130,377	202,800	55.55%	306,434	51.10%
7 Operating expenses associated with other resources allocated to regulatory matters <sup>1</sup>	5655				31,668	50,000	57.89%	24,978	-50.04%
8 Other regulatory agency fees or assessments	5655		20,077	20,301	21,818	25,000	14.58%	26,000	4.00%
9 Any other costs for regulatory matters (please define) - advertising, memberships, subscriptions	5655		5,163	3,903	7,544	18,179	140.97%	18,906	4.00%
10 Intervenor costs									
11 Include other items in green cells, as applicable									
12									
13									
14									
28									
29									
30									
<b>Regulatory Costs (One-Time)</b>									
1 Expert Witness costs									
2 Legal costs	5655		64,000	90,130		73,000		48,000	-34.25%
3 Consultants' costs			42,000	95,561	41,758	32,300	-22.65%	40,000	23.84%
4 Incremental operating expenses associated with staff resources allocated to this application.			10,000	44,848		100,000		63,332	-36.67%
5 Incremental operating expenses associated with other resources allocated to this application. <sup>1</sup>									
6 Intervenor costs			100,000	64,093				125,000	
7 OEB Section 30 Costs (application-related)			12,000	7,603				8,000	
8 Include other items in green cells, as applicable									
9									
30									
1 Sub-total - Ongoing Costs <sup>2</sup>		\$ -	\$ 262,120	\$ 260,587	\$ 377,755	\$ 457,850	21.20%	\$ 559,668	22.24%
2 Sub-total - One-time Costs <sup>3</sup>		\$ -	\$ 228,000	\$ 302,235	\$ 41,758	\$ 205,300	391.64%	\$ 284,332	38.50%
3 Total		\$ -	\$ 490,120	\$ 562,822	\$ 419,513	\$ 663,150	58.08%	\$ 665,946	0.42%

Application-Related One-Time Costs	Total
Total One-Time Costs Related to Application to be Amortized over IRM Period	\$ 531,390
1/5 of Total One-Time Costs	\$ 106,278

The on-going costs include costs related to OEB Assessments, OEB Section 30 Costs and costs related to staffing of employees related to regulatory matters.

The one-time costs related to the rate application include legal costs (to review the DSP, and application), consultant costs (to prepare the load forecast, prepare the LRAMVA submission, and assist with Cost Allocation among other items), Intervenor and OEB related application costs. The 2023 rate application

costs total \$531,390 which represents one-time application related costs from 2021, 2022 and 2023. These costs are proposed to be amortized over a five year period in the amount of \$106,278 per year.

#### **4.5.10 Low-income Energy Assistance Program (LEAP)**

Bluewater has a strong partnership with a local social service agency to provide annual funding to assist customers who have difficulty paying their hydro bill. The agency adheres to the OEB's OESP and LEAP manual dated October 9, 2015, along with the additional temporary changes made to the program related to COVID-19. Bluewater has contributed an amount of \$24,848 each year to the social agency from 2013 to 2022, and the funds are typically fully utilized each year.

Based on the calculation of 0.12% of the total distribution revenue requirement, Bluewater has forecast an amount of \$30,000 for LEAP funding for 2023 based on an estimated revenue requirement of \$26,000,000. Bluewater will update this amount based on the final revenue requirement as a result of the rate application process.

#### **4.5.11 Charitable Donations**

Bluewater has not included any amounts for charitable donations or political donations in its 2023 OM&A, other than the requested annual donation for LEAP as described in Section 4.6.4 above.

### **4.6 Conservation and Demand Management**

Bluewater has historically been an active participant in managing and implementing the provincial government's CDM Programs. However, in March 2019, the Minister of Energy, Northern Development and Mines ("MEDM") issued directives to the OEB and the IESO with the effect of concluding the Conservation First Framework ("CFF")<sup>10</sup> but allowing certain projects in progress to be completed by

---

<sup>10</sup> March 21, 2019: <https://www.oeb.ca/regulatory-rules-and-documents/ministerial-directives-and-letters>

1 August 31, 2022, and if certain conditions are met the deadline for completion may be extended to  
2 December 31, 2022<sup>11</sup>.

3  
4 Bluewater is actively working with customers that have projects yet to be completed to ensure they are  
5 aware of the timelines and to encourage completion of the projects. As a result, Bluewater is proposing  
6 recovery of lost revenue related to projects that were completed in 2021 and 2022 and the persisting lost  
7 revenue in these two years. A full discussion of the proposed LRAMVA recovery is included in Exhibit 9.  
8 Currently, CDM activity under the provincial 2021-2024 CDM Framework is centralized under the IESO  
9 and funded through the Global Adjustment (GA) mechanism. The 2021 CDM Guidelines indicate that any  
10 efforts by LDCs to support these IESO programs should be limited in nature and non-duplicative of the  
11 IESO's activities, and that LDCs should not request funding through distribution rates for dedicated CDM  
12 staff to support IESO programs.

13  
14 As a result, Bluewater confirms that there are no capital nor OM&A costs included in 2023 for staffing  
15 related to the 2021-2024 CDM Framework. Furthermore, at this time Bluewater does not intend to  
16 participate in the IESO's Local Initiatives Program ("LIP").  
17

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<sup>11</sup> <https://www.saveonenergy.ca/News-and-Updates>



# **ATTACHMENT 4 – 1**

## **ACTUARIAL VALUATION REPORT 2022 - REACTED**



# BLUEWATER POWER CORPORATION

REPORT ON THE ACTUARIAL  
VALUATION OF POST-RETIREMENT  
NON-PENSION BENEFITS

AS AT DECEMBER 31, 2022

May 26, 2022

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## EXECUTIVE SUMMARY

### Purpose

RSM Canada Consulting LP was engaged by Bluewater Power Corporation (the "Corporation") to perform an actuarial valuation of the post-retirement non-pension benefits sponsored by the Corporation and to determine the accounting results for those benefits as of March 31, 2022 and for the fiscal period ending December 31, 2022. The nature of these benefits is defined benefit.

This report is prepared in accordance with the International Financial Reporting Standards ("IFRS") guidelines for post-retirement non-pension benefits as outlined in the International Accounting Standard 19 – Employee Benefits ("IAS 19").

The most recent full valuation was prepared as at December 31, 2019 based on the assumptions chosen by management at that date and in accordance with IAS 19.

The purpose of this valuation is threefold:

- i) To determine the Corporation's liabilities in respect of post-retirement non-pension benefits at March 31, 2022 with extrapolation to determine the liabilities at December 31, 2022;
- ii) To determine the defined benefit costs to be recognized for fiscal year 2022; and
- iii) To provide all other pertinent information necessary for compliance with IAS 19.

Note that all monetary figures in this report are rounded to the nearest hundreds of dollars and summated figures in this report may not match total figures due to rounding.

The intended users of this report include the Corporation and its auditors. This report is not intended for use by the plan beneficiaries or for use in determining any funding of the benefit obligations.

Included in the Appendix attached hereto are detailed accounting schedules containing the results of the valuation.



## SECTION C — SUMMARY OF ACTUARIAL METHOD AND ASSUMPTIONS

### Actuarial Method

The aim of an actuarial valuation of post-retirement non-pension benefits is to provide a reasonable and systematic allocation of the cost of these future benefits to the years in which the related employees' services are rendered. To accomplish this, it is necessary to:

- make assumptions for discount rates, mortality, and other decrements;
- use these assumptions to calculate the present value of the expected future benefits; and,
- adopt an actuarial cost method to allocate the present value of expected future benefits to the specific years of employment.

The Defined Benefit Obligation and Current Service Cost were determined using the projected benefit method, pro-rated on service. This is the method stipulated by IAS 19. Under this method, the projected post-retirement benefits are deemed to be earned on a pro-rata basis over the years of service in the attribution period. IAS 19 stipulates that the attribution period commences on the date when service by the employee first leads to benefits under the plan (whether or not the benefits are conditional on further service) and ends on the date when further service by the employee will lead to no material amount of further post-retirement non-pension benefits under the plan, other than from further salary increases.

For each employee not yet fully eligible for benefits, the Present Value of the Defined Benefit Obligation (PV DBO) is equal to the present value of expected future benefits multiplied by the ratio of the years of service to the valuation date to the total years of service in the attribution period. The Current Service Cost is equal to the present value of expected future benefits multiplied by the ratio of the year (or part) of service in the fiscal year to total years of service in the attribution period.

The PV DBO at December 31, 2022 is based on membership data as at March 31, 2022 and management's best estimate assumptions established for calculations as at December 31, 2022.

For health and dental benefits, the Corporation has selected the premium rates charge to retirees as management's best estimate of the benefits costs to be incurred. The total monthly premium rates, inclusive of expenses and taxes, used are as follows:

Effective Period	Health Single	Health Family	Dental Single	Dental Family	Vision Single	Vision Family
January 1, 2020 – December 31, 2020	\$ 142.28	\$ 326.05	\$ 80.92	\$ 187.22	\$ 12.94	\$ 20.68
January 1, 2022 – December 31, 2022	\$ 167.97	\$ 384.93	\$ 76.27	\$ 176.46	\$ 16.21	\$ 25.89

Also, the above rates are at the 100% level and prior to any cost-sharing provisions under the plan.

## Management's Best Estimate Assumptions

The following are management's best estimate economic and demographic assumptions for calculations as at December 31, 2022.

### Economic Assumptions

#### Discount Rate

The rate used to discount future benefits is assumed to be 4.60% per annum as of December 31, 2022 using the most recent spot rates curve as of April 30, 2022 from Fiera. This rate reflects the Corporation's expected projected benefit cash flows for post-retirement non-pension benefits and the market yields on high quality bonds at the time of preparing the valuation.

The assumption used in the previous valuation was 3.20% per annum at December 31, 2019, which was subsequently updated to 3.00% per annum at December 31, 2021.

#### Salary Increase Rate

The rate used to increase salaries is assumed to be 2.00% per annum up to December 31, 2026 and 2.90% per annum thereafter. This rate has been chosen by the Corporation's management and reflect the expected Consumer Price Index adjusted for productivity, merit and promotion and for company-specific information.

This salary increase rate assumption used in the previous valuation was 2.30% per annum for the first 4 years up to December 31, 2023 and 3.00% per annum thereafter.

#### Claims Cost Trend Rate

The rates used to project benefit costs into the future were chosen based on a research paper published by the Canadian Institute of Actuaries – *Model of Long-Term Health Care Cost Trends in Canada* - dated March 2018. This assumption was unchanged from the previous valuation.

The following table provides a sample of the health and dental trend rates used in the valuation:

Year	Current Valuation	
	Health	Dental
2022	4.70%	4.90%
2025	5.30%	5.60%
2030	5.30%	5.30%
2035	4.60%	4.60%
2040 and thereafter	4.00%	4.00%

## Demographic Assumptions

### Mortality Table

The mortality tables used are as per the Canadian Institute of Actuaries Canadian Pensioners' Mortality Pension Experience Subcommittee final report dated February 11, 2014 (CIA Report). More specifically, the Canada Pensioners Mortality ("CPM") Table Public Sector (CPM2014 PUBL) has been used with the generational projection of mortality improvement based upon the CIA MI-2017 mortality improvement scale published in 2017.

The mortality table assumption remains unchanged from the previous valuation.

### Rates of Withdrawal

Termination of employment is assumed to be in accordance with the following withdrawal table:

Age Bucket	Current Valuation	Previous Valuation
18 – 29	2.90%	3.50%
30 – 34	2.15%	2.00%
35 – 39	1.85%	1.65%
40 – 49	1.45%	1.30%
50 – 54	1.25%	0.95%

### Retirement Age

All active employees are assumed to retire at age 60 (or immediately if currently over age 60). For employees who meet the minimum service requirement to be eligible for post-retirement benefits between ages 60 and 65, the retirement age will be extended to this date.

This assumption remains unchanged from the previous valuation.

### Disability

No provision was made for future disability.

This assumption remains unchanged from the previous valuation.

## Other Assumptions

### Family/Single Coverage

The following assumptions were chosen for the current valuation and are unchanged from the previous valuation:

- Coverage Type at Retirement (i.e. family, single) – The employee's coverage type at the valuation date will remain the same until the employee reaches the assumed retirement age.
- Spousal Gender – For employees with family coverage, the retiree has a spouse of the opposite gender at the date of retirement.
- Spousal Age Offset – Male spouses are assumed to be three years older than female spouses

### Expenses and Taxes

For health and dental coverage, the above premium rates are inclusive of expenses and taxes and therefore no additional assumptions regarding expenses is required.

For life coverage, it is assumed that 10% of the accrued benefit obligation reflects the cost of sponsoring and administering the program for life insurance. No additional information is available regarding the costs for the life insurance program.

These assumptions remain unchanged from the previous valuation.

## SECTION D — SUMMARY OF POST-RETIREMENT BENEFITS

The following is a summary of the plan provisions that are pertinent to this valuation, based on information provided by and discussions with the Corporation.

### Eligibility

All employees hired prior to January 1, 2012 who retire from the Corporation are eligible for MEARIE post-retirement life insurance coverage. In addition, employees hired prior to December 31, 1989 who retire from the Corporation are eligible for an additional life insurance benefit from Great West Life.

All employees hired prior to January 1, 2006 are eligible for post-retirement health, dental, and vision insurance benefits. Employees hired on or after January 1, 2006 but prior to January 1, 2016 must retire with a minimum of 10 years of service to be eligible for post-retirement health, dental, and vision insurance benefits. Employees hired after January 1, 2016 must retire with a minimum of 25 years of service to be eligible for post-retirement health insurance benefits and are not eligible for post-retirement dental or vision insurance benefits.

### Participant Contributions

The Corporation shall pay 100% of the cost of the MEARIE life insurance benefits and 2/3 of the cost of the Great West Life insurance benefits for all eligible retirees.

The Corporation shall pay 100% of the cost of the extended health insurance benefits and shall pay for post-retirement vision and dental benefits according to the following reducing schedule of premiums:

Year	Corporation Share	Retiree Share
1	100%	0%
2	80%	20%
3	60%	40%
4	40%	60%
5	20%	80%

For clarity, the Corporation does not pay for post-retirement vision and dental benefits for retirees beyond 5 years.

### Past Service

Past service is defined as continuous service prior to joining the plan if the participant was employed by another electrical distribution company/hydro prior to joining the Corporation.

### Length of Service

Length of service is defined as continuous service from the date of hire to the valuation date, measured in years and months.

## Summary of Benefits

### Life Insurance

Upon retirement, all employees are entitled to post-retirement life insurance benefits, as per the MEARIE plan, based upon the following table:

Plan Option	Amount of Coverage	Eligibility
1	Flat \$2,000.	Employee retires with less than 10 years of service in the Plan.
2	50% of final annual earnings, reducing by 2.5% of final annual earnings each year for 10 years, to a final benefit equal to 25% of final annual earnings.  Reduction occurs on the anniversary date of retirement.	If employee was ever insured under Employee Plan option 2, 3, or 4, or if employee retires with 10 or more years of service in Plan but was never in superseded plan.
3	50% of final annual earnings.	Employee was insured under the superseded plan and was hired on or after May 1, 1967 and elected coverage under option 1 only.
4	70% of final amount insured under the life plan immediately prior to retirement.	Employee was insured under the superseded plan and was hired before May 1, 1967 and elected coverage under option 1 only.
5	Amount of retirement insurance coverage in force under superseded plan grandfathered.	Frozen group of insured whose retirement occurred under superseded plan prior to transfer to Sun Life.

In addition to life insurance coverage under the MEARIE plan, employees hired on or before December 31, 1989 who retired from Bluewater Power Corporation are eligible for an additional life insurance benefit from Great West Life for life in the amount of 25% of a retiree's amount of basic coverage immediately prior to retirement to a maximum of \$12,500.

### Health and Dental Benefits

#### ***For employees hired prior to January 1, 2006***

All eligible employees who retire from the Corporation are entitled to the following benefits:

- Lifetime extended health coverage. Eligible surviving spouse continues to have the health coverage for lifetime unless the spouse disqualified by existing criteria.
- Vision care for up to 5 years or until the retiree turns age 65, whichever occurs first.
- Dental coverage for up to 5 years or until the retiree turns age 65, whichever occurs first. If the employee has more than 10 years of continuous service, eligible surviving spouse continues to have the dental coverage up to the age of 65 unless the spouse disqualified by existing criteria.

#### ***For employees hired on or after January 1, 2006 but prior to January 1, 2016***

All eligible employees who retire from the Corporation are entitled to the same health, vision and dental benefits as retirees who were hired prior to January 1, 2006 with the exception of health benefits ceasing

at age 65. Health, vision and dental benefits to eligible dependents of a deceased employee or retiree for a period of 2 years or until the dependent would have turned age 65.

***For employees hired on or after January 1, 2016***

All eligible employees who retire from the Corporation are entitled to health benefits ceasing at age 65.

***For employees on LTD***

Employees who retire from long-term disability are eligible for the same benefits as outlined above.

A detailed description of the post-retirement non-pension benefits program can be found in the benefit information booklets provided to employees.

## ACTUARIAL CERTIFICATION

An actuarial valuation has been performed on the post-retirement non-pension benefit plans sponsored by Bluewater Power Corporation (the "Corporation") as at December 31, 2022, for the purposes described in this report.

In accordance with the Canadian Institute of Actuaries Consolidated Standards of Practice General Standards, we hereby certify that, in our opinion, for the purposes stated in the Executive Summary:

1. The data on which the valuation is based is sufficient and reliable;
2. The assumptions employed, as outlined in this report, have been selected by the Corporation as management's best estimate assumptions (no provision for adverse deviations) and we express no opinion on them;
3. All known legal and constructive obligations with respect to the post-retirement non-pension benefits sponsored by and identified by the Corporation are included in the calculations; and
4. This report has been prepared, and our opinions given, in accordance with accepted actuarial practice in Canada.

We are not aware of any subsequent events after the date of completing this valuation that would have a significant effect on the valuation results contained herein.

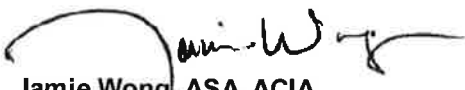
The latest date on which the next actuarial valuation should be performed is December 31, 2025. If any supplemental advice or explanation is required, please advise the undersigned.

Respectfully submitted,

**RSM CANADA CONSULTING LP**



**Stanley Caravaggio, FSA, FCIA**  
Director



**Jamie Wong, ASA, ACIA**  
Manager

Toronto, Ontario

May 26, 2022



## SECTION E — EMPLOYER CERTIFICATION

### Post-Retirement Non-Pension Benefit Plan of Bluewater Power Corporation Actuarial Valuation as at December 31, 2022

I hereby confirm, as an authorized signing officer of the administrator of the Post-Retirement Non-Pension Benefit Plan of Bluewater Power Corporation, that, to the best of my knowledge and belief, for the purposes of the valuation:

- i) The membership data summarized in Section B is accurate and complete;
- ii) The assumptions upon which this report is based as summarized in Section C, are management's best estimate assumptions and are adequate and appropriate for the purposes of this valuation; and
- iii) The summary of Plan Provisions in Section D is an accurate and complete summary of the terms of the Plan in effect on December 31, 2022.

#### BLUEWATER POWER CORPORATION

May 24, 2022  
Date

*Mark Hutsen*  
Signature

Mark Hutsen  
Name

VP Finance & CFO  
Title



## APPENDIX — DETAILED ACCOUNTING SCHEDULES



5/26/2022

**Bluewater Power Corporation**  
**Estimated Benefit Expense (IAS 19)**  
**Bluewater Power Distribution Corporation**

	Actuals CY 2022 *	Projected ** CY 2023	Projected ** CY 2024	Projected ** CY 2025
Discount Rate at January 1	3.00%	4.60%	4.60%	4.60%
Discount Rate at December 31	4.60%	4.60%	4.60%	4.60%
Health Benefit Cost Trend Rate at December 31	4.70%	4.90%	5.10%	5.30%
Dental Benefit Cost Trend Rate at December 31	4.90%	5.10%	5.40%	5.60%
Long Term Health and Dental Benefit Cost Trend Rate	4.00%	4.00%	4.00%	4.00%
First Year Of Long Term Health and Dental Benefit Cost Trend Rate	2040	2040	2040	2040
Assumed Increase in Employer Contributions	expected ***	expected ***	expected ***	expected ***

**A. Change in the Net Defined Benefit Liability/(Asset) Recognized in Balance Sheet**

Net Defined Benefit Liability/(Asset) as at January 1	13,156,064	11,624,742	11,899,132	12,146,695
Defined Benefit Cost Recognized in Income Statement	651,220	664,500	645,694	637,872
Defined Benefit Cost Recognized in Other Comprehensive Income	(1,877,662)	-	-	-
Benefits Paid by the Employer	(304,880)	(390,110)	(398,131)	(418,380)
<b>Net Defined Benefit Liability/(Asset) as at December 31</b>	<b>11,624,742</b>	<b>11,899,132</b>	<b>12,146,695</b>	<b>12,366,187</b>

**B. Determination of Defined Benefit Cost**

**B1. Determination of Defined Benefit Cost Recognized in Income Statement**

Current Service Cost	260,980	173,114	134,118	102,550
Interest Cost	390,240	491,386	511,576	535,322
<b>Defined Benefit Cost Recognized in Income Statement</b>	<b>651,220</b>	<b>664,500</b>	<b>645,694</b>	<b>637,872</b>

**B2. Remeasurements of the Net Defined Benefit Liability/(Asset) Recognized in Other Comprehensive Income**

Net Actuarial Loss/(Gain) arising from Changes in Financial Assumptions	(3,061,898)	-	-	-
Net Actuarial Loss/(Gain) arising from Changes in Demographic Assumptions	(43,877)	-	-	-
Net Actuarial Loss/(Gain) arising from Experience Adjustments	1,228,113	-	-	-
Return on Plan Assets (Excluding Amounts Included in Net Interest Cost)	-	-	-	-
Change in Effect of Asset Ceiling	-	-	-	-
<b>Defined Benefit Cost Recognized in Other Comprehensive Income</b>	<b>(1,877,662)</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Total Defined Benefit Cost</b>	<b>(1,226,442)</b>	<b>664,500</b>	<b>645,694</b>	<b>637,872</b>

**C. Change in the Present Value of Defined Benefit Obligation**

Present Value of Defined Benefit Obligation as at January 1	13,156,064	11,624,742	11,899,132	12,146,695
Current Service Cost	260,980	173,114	134,118	102,550
Interest Cost	390,240	491,386	511,576	535,322
Benefits Paid	(304,880)	(390,110)	(398,131)	(418,380)
Net Actuarial Loss/(Gain)	(1,877,662)	-	-	-
<b>Present Value of Defined Benefit Obligation as at December 31</b>	<b>11,624,742</b>	<b>11,899,132</b>	<b>12,146,695</b>	<b>12,366,187</b>

\* The expected December 31, 2022 PV DBO and CY 2022 defined benefit cost are calculated based on membership data and management's best estimate assumptions at December 31, 2021.

\*\* Projected CY 2023, 2024 and 2025 results are provided for informational purposes only. Significant changes such as re-negotiated benefits, increased benefit costs, or significant swings in demographics may require revised projections or a full actuarial review.

\*\*\* Based on expected benefits to be paid to those eligible for benefits.



5/26/2022

**Bluewater Power Corporation**  
**Estimated Benefit Expense (IAS 19)**  
**Bluewater Power Distribution Corporation**

	Actuals CY 2022 *	Projected ** CY 2023	Projected ** CY 2024	Projected ** CY 2025
Discount Rate at January 1	3.00%	4.60%	4.60%	4.60%
Discount Rate at December 31	4.60%	4.60%	4.60%	4.60%
Health Benefit Cost Trend Rate at December 31	4.70%	4.90%	5.10%	5.30%
Dental Benefit Cost Trend Rate at December 31	4.90%	5.10%	5.40%	5.60%
Long Term Health and Dental Benefit Cost Trend Rate	4.00%	4.00%	4.00%	4.00%
First Year Of Long Term Health and Dental Benefit Cost Trend Rate	2040	2040	2040	2040
Assumed Increase in Employer Contributions	expected ***	expected ***	expected ***	expected ***

**D. Calculation of Component Items**

**Interest Cost**

Present Value of Defined Benefit Obligation as at January 1	13,156,064	11,624,742	11,899,132	12,146,695
Benefits Paid	(152,440)	(195,055)	(199,066)	(209,190)
Accrued Benefits	13,003,624	11,429,687	11,700,067	11,937,505
Interest Cost	390,240	491,386	511,576	535,322

**Expected Present Value of Defined Benefit Obligation as at December 31**

Present Value of Defined Benefit Obligation as at January 1	13,156,064	11,624,742	11,899,132	12,146,695
Current Service Cost	260,980	173,114	134,118	102,550
Benefits Paid	(304,880)	(390,110)	(398,131)	(418,380)
Interest Cost	390,240	491,386	511,576	535,322
Expected Present Value of Defined Benefit Obligation as at December 31	13,502,404	11,899,132	12,146,695	12,366,187

**E. Net Actuarial Loss/(Gain)**

**Net Actuarial Loss/(Gain) as at December 31**

Expected Present Value of Defined Benefit Obligation	13,502,404	11,899,132	12,146,695	12,366,187
Actual Present Value of Defined Benefit Obligation	11,624,742	11,899,132	12,146,695	12,366,187
Net Actuarial Loss/(Gain) as at December 31	(1,877,662)	-	-	-

\* The expected December 31, 2022 PV DBO and CY 2022 defined benefit cost are calculated based on membership data and management's best estimate assumptions at December 31, 2021.

\*\* Projected CY 2023, 2024 and 2025 results are provided for informational purposes only. Significant changes such as re-negotiated benefits, increased benefit costs, or significant swings in demographics may require revised projections or a full actuarial review.

\*\*\* Based on expected benefits to be paid to those eligible for benefits.



# **ATTACHMENT 4 – 2**

## **ELECTEK \_ DISTCO MANAGEMENT SERVICES AGREEMENT**

## **MANAGEMENT SERVICES AGREEMENT**

THIS MANAGEMENT SERVICES AGREEMENT made as of the 17<sup>th</sup> day of November, 2020,

BETWEEN:

**ELECTEK POWER SERVICES INC.,**  
an Ontario corporation  
(**"Electek"**)

and

**BLUEWATER POWER DISTRIBUTION CORPORATION,**  
an Ontario corporation  
(**"BWP Distribution"**)

WHEREAS:

- A. BWP Distribution carries on the business of distributing electricity within the City of Sarnia, the Town of Petrolia, the Village of Point Edward, the Village of Oil Springs, The Municipality of Brooke-Alvinston, and the Township of Warwick;
- B. Electek carries on the business of high voltage protection and control work in Ontario; and
- C. BWP Distribution agrees to provide certain services to Electek on the terms as set forth in this Agreement.

**NOW THEREFORE** in consideration of the mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### **ARTICLE 1 INTERPRETATION**

#### **1.1 Definitions**

In this Agreement and in the Schedules, the following terms and expressions will have the following meanings:

- (a) "Agreement" means this Services Agreement together with all Schedules attached to it, as they may be amended from time to time;
- (b) "Business Day" means any day other than a Saturday, Sunday, statutory or bank holiday in the Province of Ontario;
- (c) "Claim" has the meaning ascribed to it in Section 4.4;
- (d) "Confidential Information" means information BWP Distribution has obtained relating to a specific consumer, retailer and/or generator in the process of providing current or prospective distribution service;

- (e) “Default” has the meaning ascribed to it in Section 8.1;
- (f) “Defaulting Party” has the meaning ascribed to it in Section 8.1;
- (g) “Effective Date” means January 1, 2021;
- (h) “Event of Default” has the meaning ascribed to it in Section 8.1;
- (i) “Force Majeure Event” has the meaning ascribed to it in Section 11.1;
- (j) “IESO” means the Independent Electricity System Operator;
- (k) “Law” means any law, rule, regulation, code, order, writ, judgement, decree or other legal or regulatory determination by a court, regulatory agency, including the IESO, or governmental authority of competent jurisdiction;
- (l) “Party” means a party to this Agreement and “Parties” refers to both Electek and BWP Distribution collectively;
- (m) “Person” means an individual, corporation, partnership, joint venture, association, trust, pension fund, union, governmental agency, official, board, tribunal, ministry, commission or department;
- (n) “Personnel” means employees, agents, professional advisors, contractors and subcontractors;
- (o) “Services” has the meaning ascribed to it in Section 3.1 of this Agreement;
- (p) “Service Standards” has the meaning ascribed to it in Section 3.2 of this Agreement;
- (q) “Term” has the meaning ascribed to it in Section 2.1 of this Agreement; and
- (r) “Third Party Expenses” means all fees, costs and charges paid to third parties by BWP Distribution on behalf of Electek in connection with providing the Services or incurred by BWP Distribution’s employees while providing Services under this Agreement.

## 1.2 Construction of Agreement

In this Agreement:

- (a) words denoting the singular include the plural and vice versa and words denoting any gender include all genders;
- (b) all usage of the word “including” or the phrase “e.g.,” in this Agreement shall mean “including, without limitation,” throughout this Agreement;
- (c) any reference to a statute shall mean the statute in force as at the date hereof, together with all regulations promulgated under it, as the same may be amended,

re-enacted, consolidated or replaced, from time to time, and any successor statute, unless otherwise expressly provided;

- (d) any reference to a specific executive position or an internal division or department of a Party shall include any successor positions, divisions or departments having substantially the same responsibilities or performing substantially the same functions;
- (e) when calculating the period of time within which or following which any act is to be done or step taken, the date which is the reference day in calculating such period shall be excluded, and if the last day of such period is not a Business Day, the period shall end on the next Business Day;
- (f) all dollar amounts are expressed in Canadian dollars;
- (g) the division of this Agreement into separate Articles, Sections, subsections and Schedules and the insertion of headings is for convenience of reference only and shall not affect the construction or interpretation of this Agreement;
- (h) words or abbreviations which have well known or trade meanings are used in accordance with their recognized meanings;
- (i) the terms and conditions are the result of negotiations between the Parties and the Parties therefore agree that this Agreement shall not be construed in favour of or against any Party by reason of the extent to which any Party or its professional advisors participated in the preparation of this Agreement.

## **ARTICLE 2 TERM**

### **2.1    Term**

Unless terminated in accordance with Section 10.1, this Agreement shall come into force on the Effective Date and shall continue in full force and effect for a period of five (5) years. Thereafter, the term shall be automatically renewed for further successive periods of one (1) year each unless a Party gives notice in writing that the Agreement is not to be extended on a date which is at least ninety (90) days prior to the end of the initial five (5) year term, or the end of any renewal term, as the case may be.

## **ARTICLE 3 BWP DISTRIBUTION SERVICES AND COVENANTS**

### **3.1    Services**

Subject to the terms, covenants and conditions contained in this Agreement, BWP Distribution will provide, or cause to be provided, to Electek the services set out in Schedule "A" (collectively the "Services"), as may be required by Electek.



### 3.2 Service Standards

BWP Distribution will provide the Services to Electek, or cause them to be provided, to the standards set out in Schedule "B" (collectively the "Service Standards").

### 3.3 Changes

Electek and BWP Distribution may, from time to time, during the term of this Agreement agree to modifications to a Service or a Service Standard by negotiating appropriate changes to the description of the Service or the Service Standard, as applicable, and the necessary associated amendments to the consideration for such Service or Service Standard. As evidence of such modifications, the Parties shall initial and attach amended Schedule(s) in this Agreement.

### 3.4 General BWP Distribution Covenants

- (a) BWP Distribution shall, when requested, provide Electek with adequate evidence of its compliance with this Section 3.4.
- (b) BWP Distribution shall, while on site at any premises used by Electek, comply with all the rules and regulations of Electek from time to time in force, which are brought to its notice or of which it should reasonably be aware.
- (c) BWP Distribution shall pay for and maintain for the benefit of BWP Distribution and Electek appropriate insurance concerning the operations and liabilities of BWP Distribution relevant to this Agreement including, without limiting the generality of the foregoing, workplace safety and employment insurance in conformity with applicable statutory requirements in respect of any remuneration payable by BWP Distribution to any employees of BWP Distribution and public liability and property damage insurance.

### 3.5 Electek Covenants

- (a) Electek shall be responsible for obtaining all necessary licences and permits and for complying with all applicable federal, provincial and municipal laws, codes and regulations required to conduct its business and to use any property of BWP Distribution.
- (b) Electek shall pay for and maintain for the benefit of Electek and BWP Distribution appropriate insurance concerning the operations and liabilities of Electek relevant to this Agreement including, without limiting the generality of the foregoing, workplace safety and employment insurance in conformity with applicable statutory requirements in respect of any remuneration payable by Electek to any employees of Electek and public liability and property damage insurance.
- (c) Electek shall not, without BWP Distribution's prior consent, make any alternations, additions or improvements to the property of BWP Distribution and shall, while using the BWP Distribution property, use reasonable care and skill.

### 3.6 Regulatory Change

If any change of Law after the date of this Agreement renders this Agreement illegal or unenforceable, then the Parties shall be required to renegotiate in good faith for thirty (30) days with a goal of developing a substitute agreement with such amendments as are necessary to comply with such change of Law.

## **ARTICLE 4 MUTUAL COVENANTS**

### 4.1 Confidentiality of Confidential Information

No Personnel of a Party shall have access to any Confidential Information in the possession of the other Party, except for purposes related to the provision of Services and in compliance with the Affiliate Relationship Code for Electricity Distributors and Transmitters prescribed by the Ontario Energy Board.

### 4.2 Maintain Records

The Parties will maintain such records as may be necessary in connection with this Agreement and as are agreed upon by the Parties, acting reasonably.

### 4.3 Notification of Changes of Circumstances

BWP Distribution shall promptly give written notice to Electek of any changes or prospective changes in circumstances that would materially affect the resources required for the Services provided to Electek, including any anticipated material change in the nature or level of business of BWP Distribution, the number of employees of BWP Distribution, or any efforts relating to the organization of or collective bargaining by employees of BWP Distribution, or any lease or service arrangements contemplated with any third party.

### 4.4 Notice of Claims, Etc.

BWP Distribution shall promptly give written notice to Electek, and Electek shall promptly give written notice to BWP Distribution, of all material claims, proceedings, notice of regulatory non-compliance from any regulatory authority, disputes (including labour disputes) or litigation (collectively, "Claims") which it reasonably believes could have a material adverse effect on the fulfillment of any of the material terms hereof by BWP Distribution or Electek (whether or not any such Claim is covered by insurance) in respect of its own operations of which either of them is aware. Each Party shall provide the other Party with all information reasonably requested from time to time concerning the status of such Claims and any developments relating thereto.

## **ARTICLE 5 FEES AND COSTS**

### 5.1 Fees

As consideration for the Services provided, Electek shall pay to BWP Distribution the fees and charges set out in Schedule "C". BWP Distribution shall render a quarterly invoice for all Services

provided to Electek during the preceding month, which invoice shall be due and payable within thirty (30) days of receipt.

### 5.2 Out of Pocket and Third Party Expenses

BWP Distribution shall be reimbursed for all out-of-pocket expenses and Third Party Expenses actually and properly incurred by BWP Distribution in connection with the performance of Services hereunder.

### 5.3 Taxes

Electek shall pay to BWP Distribution any and all harmonized sales tax, value-added taxes and/or any other taxes (excluding income taxes) properly eligible on the supply of Services provided under this Agreement and on any other amounts payable hereunder.

## **ARTICLE 6 REPRESENTATIONS AND WARRANTIES**

### 6.1 Representations and Warranties of BWP Distribution

BWP Distribution represents and warrants to Electek as follows and acknowledges that Electek is relying on such representations and warranties:

- (a) BWP Distribution is a corporation duly incorporated and validly existing under the laws of the Province of Ontario and has the rights, powers and privileges to execute and deliver this Agreement and to perform its obligations hereunder;
- (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate action;
- (c) this Agreement constitutes a legal, valid and binding obligation of BWP Distribution, enforceable against BWP Distribution by Electek in accordance with its terms except as may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction; and
- (d) BWP Distribution has the necessary resources and expertise to acquire or perform the Services.

### 6.2 Representations and Warranties of Electek

Electek represents and warrants to BWP Distribution as follows and acknowledges that BWP Distribution is relying on such representations and warranties:

- (a) Electek is a corporation duly incorporated and validly existing under the laws of the Province of Ontario and has the rights, powers and privileges to execute and deliver this Agreement and to perform its obligations hereunder;
- (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate actions; and

- (c) this Agreement constitutes a legal, valid and binding obligation of Electek, enforceable against Electek by BWP Distribution in accordance with its terms except as may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction.

### 6.3 Warranty

The Services provided by BWP Distribution will be performed in a professional and workmanlike manner in accordance with the Service Standards, however, the Services are provided without warranty.

## **ARTICLE 7 INDEMNIFICATION**

### 7.1 Indemnification

- (a) Electek shall indemnify, defend and hold harmless BWP Distribution, its officers, directors, and employees (each a "BWP Distribution Indemnatee") from and against any and all claims, demands, suits, losses, liabilities, damages, obligations, payments, costs and expenses and accrued interest thereon (including the costs and expenses of, and accrued interest in respect of, any and all actions, suits, proceedings, assessments, judgements, awards, settlements and compromises relating thereto and reasonable lawyers' fees and reasonable disbursements in connection therewith) (each an "Indemnifiable Loss"), asserted against or suffered by any BWP Distribution Indemnities relating to, or in connection with, or resulting from or arising out of the provision of the Services by BWP Distribution.
- (b) BWP Distribution shall be deemed to hold the provisions of Section 7.1(a) that are for the benefit of BWP Distribution Indemnities that are not party to this Agreement in trust for such persons as third party beneficiaries under this Agreement.

### 7.2 Limit of Liability

- (a) Should BWP Distribution be held liable by a court of law for any reason, Electek agrees that BWP Distribution's liability to Electek or any third party in connection with or arising under this Agreement, including without limitation, any liability arising from any act or omission of BWP Distribution in the provision of the Services, whether arising in contract, tort, equity or otherwise, shall be limited to, and Electek shall indemnify BWP Distribution from, actions or liabilities resulting solely from the fraud or wilful misconduct of BWP Distribution in the provision of the Services and shall not exceed an amount equal to the total amount paid by Electek to BWP Distribution under this Agreement for Services over the twelve month period immediately preceding the date that the cause of action or claim giving rise to the liability first arose.
- (b) BWP Distribution shall not be liable for any damages caused by delay in delivering or furnishing any Services referred to in this Agreement.

### 7.3 Fines, Etc.

Notwithstanding anything else to the contrary in this Agreement, the Parties agree that BWP Distribution shall not be responsible for any sanctions, fines, penalties, or similar obligations imposed on Electek, and Electek agrees to indemnify and hold harmless BWP Distribution from any such sanctions fines, penalties or similar obligations.

## **ARTICLE 8 DEFAULT**

### 8.1 Events of Default

The occurrence of any one or more of the following events shall constitute a default (a "Default") by a Party (the "Defaulting Party") under this Agreement and shall constitute an "Event of Default" if such Default is not remedied prior to the expiry of any notice period and any cure period applicable to such Default:

- (a) if the Defaulting Party defaults in the payment of any amount due to the other Party under this Agreement and such default shall continue unremedied for sixty (60) days following notice in writing thereof to the Defaulting Party by the other Party; or
- (b) if the Defaulting Party fails in any material respect to perform or observe any of its other material obligations under this Agreement and such failure shall continue unremedied for a period of sixty (60) days following notice in writing thereof (giving particulars of the failure in reasonable detail) from the other Party to the Defaulting Party or such longer period as may be reasonably necessary to cure such failure (if such failure is capable of being cured), provided that the Defaulting Party:
  - (i) proceeds with all due diligence to cure or cause to be cured such failure; and
  - (ii) in proceeding so, can be reasonably expected to cure or cause to be cured such failure within a reasonable time frame acceptable to the other Party acting reasonably.

## **ARTICLE 9 REMEDIES**

### 9.1 Default Remedies

- (a) Unless otherwise agreed to in writing, in the event of an Event of Default the non-defaulting Party may terminate this Agreement as it relates to the non-defaulting Party upon notice in writing and all amounts payable by the defaulting Party hereunder shall become due and payable forthwith.
- (b) The remedies in this section are expressly in lieu of any or all of the remedies which may be available to each of BWP Distribution and Electek in respect of or under

this Agreement resulting from the furnishing, the failure to furnish or the quality of any Services.

## **ARTICLE 10 TERMINATION**

### **10.1 Termination**

This Agreement shall terminate:

- (a) in accordance with the provisions of Section 9.1; or
- (b) upon issuance of a notice of non-renewal in accordance with Section 2.1.

### **10.2 Notice of Termination**

Any termination hereof pursuant to Section 10.1 shall be by written notice of the terminating Party.

## **ARTICLE 11 GENERAL**

### **11.1 Force Majeure**

No Party shall be liable for a failure or delay in the performance of its obligations pursuant to this Agreement:

- (a) provided that such failure or delay could not have been prevented by reasonable precautions;
- (b) provided that such failure or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, work around plans or other means; and
- (c) if and to the extent such failure or delay is caused, directly or indirectly, by fire, flood, earthquake, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions, strikes, lock outs or labour disruptions or revolutions in Canada, or any other similar causes beyond the reasonable control of such Party, (each a "Force Majeure Event").

Upon the occurrence of a Force Majeure Event, the non-performing Party shall be excused from any further performance of those of its obligations pursuant to this Agreement affected by the Force Majeure Event only for so long as:

- (i) such Force Majeure Event continues; and
- (ii) such Party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

The Party delayed by a Force Majeure Event shall:

- (a) immediately notify the other Parties by telephone (to be confirmed in writing within five (5) days of the inception of such delay) of the occurrence of a Force Majeure Event; and
- (b) describe in reasonable detail the circumstances causing the Force Majeure Event.

## 11.2 Dispute Resolution

If any dispute arising in relation to an Event of Default under Section 8.1(b) or the implementation of the cure for the Default under Section 8.1(b) cannot be resolved by negotiation between the Parties, then the dispute shall be referred to one arbitrator agreeable to and appointed by both Parties. If the Parties cannot agree on one arbitrator, the matter in dispute shall be referred to a panel of three arbitrators, one of which shall be appointed by BWP Distribution, one of which shall be appointed by Electek and the third shall be appointed by the two arbitrators selected by BWP Distribution and Electek. The arbitrator or arbitrators shall receive such oral and written evidence as may be required to investigate the matter in dispute and to render a decision and shall be guided by this Agreement and the intent of this Agreement. The decision of the arbitrator or arbitrators shall be provided in writing to the Parties no later than thirty (30) days after the sole arbitrator or the third arbitrator has been appointed. The decision of the arbitrator or arbitrators shall be final and binding on the Parties.

## 11.3 Assignment

Neither Party shall, without the written consent of the other Party, which may be arbitrarily withheld in the sole discretion of a Party, assign or transfer its interest in this Agreement. This Agreement shall be binding on the Parties and their respective successors and permitted assigns. Any purported assignment in contravention of this Agreement shall be void.

## 11.4 Notices

All notices, request, approvals, consents and other communications required or permitted under this Agreement shall be in writing and addressed as follows:

- (a) if to Electek,

P.O. Box 2140  
855 Confederation Street  
Sarnia, ON N7T 7L6

Attn: Mark Delaurier  
Fax: 519-383-1333  
Email: [mdelaurier@electek.ca](mailto:mdelaurier@electek.ca)

- (b) if to BWP Distribution,

P.O. Box 2140  
855 Confederation Street  
Sarnia, ON N7T 7L6

Attn: Janice McMichael-Dennis  
Fax: 519-344-6094  
Email: [jmcmichael-dennis@bluewaterpower.com](mailto:jmcmichael-dennis@bluewaterpower.com)

and shall be sent by fax and the Party sending such notice shall telephone to confirm receipt. A copy of any such notice shall also be sent on the date such notice is transmitted by fax, by email, by registered express mail or courier with the capacity to verify receipt of delivery. Either Party may change its address or fax number for notification purposes by giving the other Party notice of the new address or fax number and the date upon which it will become effective in accordance with the terms of this Agreement. A notice shall be deemed to have been received as of the next Business Day following its transmission by fax.

#### 11.5 Severability

If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable or contrary to law, then the remaining provisions of this Agreement, or the application of such provisions to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each such provision of this Agreement shall be valid and enforceable to the extent granted by law. If any clause is deemed unenforceable or contrary to law, the parties shall alter the said clause and this agreement to produce enforceability or compliance with law such that the intent of the original clause is maintained and such change or alteration may be established through the dispute resolution clause in this agreement.

#### 11.6 Waiver

No delay or omission by a Party to exercise any right or power it has under this Agreement or to object to the failure of any covenant of the other Party to be performed in a timely and complete manner, shall impair any such right or power or be construed as a waiver of any succeeding breach or any other covenant. All waivers must be in writing and signed by the Party waiving its rights.

#### 11.7 Entire Agreement

This Agreement supersedes any prior agreement between BWP Distribution and Electek in relation to the Services provided for in this Agreement, and constitutes the entire Agreement between the Parties with respect to the Services, and there are no other representations, understandings or agreements, either oral or written, between the Parties other than as set out in this Agreement.

#### 11.8 Amendments

No amendment to, or change, waiver or discharge of, any provision of this Agreement shall be valid unless in writing and signed by authorized representatives of each Party.

#### 11.9 Governing Law

This Agreement shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein. The Parties hereby agree that the courts of the Province of Ontario shall have exclusive jurisdiction over disputes under this Agreement, and the Parties agree that jurisdiction and venue in such courts is appropriate and irrevocably attach to the jurisdiction of such courts.



#### 11.10 Survival

The terms of Article 7, Article 9 and Article 11 shall survive the expiration of this Agreement or termination of this Agreement for any reason.

#### 11.11 Third Party Beneficiaries

Each Party intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any person or entity other than the Parties.

#### 11.12 Covenant of Further Assurances

The Parties agree that, subsequent to the execution and delivery of this Agreement and without any additional consideration, the Parties shall execute and deliver or cause to be executed and delivered any further legal instruments and perform any acts which are or may become necessary to effectuate the purposes of this Agreement and to complete the transactions contemplated under it.

#### 11.13 Independent Contractors

The Parties are independent contractors and neither BWP Distribution nor any of its employees shall be considered to be an agent or employee of Electek. Each of the Parties shall be solely responsible for each of its own employees. It is further understood and agreed that this Agreement does not constitute a partnership, joint venture or employment agreement between the Parties.

IN WITNESS WHEREOF this Agreement has been executed by the duly authorized signatories of the parties hereto as of the date first written above.

**ELECTEK POWER SERVICES INC.**

Per:



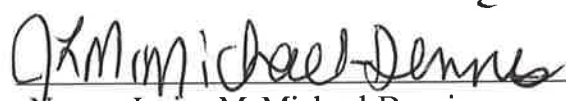
Name: Mark Delaurier

Title: Vice President

I have authority to bind the corporation

**BLUEWATER POWER DISTRIBUTION CORPORATION**

Per:



Name: Janice McMichael-Dennis

Title: President & C.E.O.

I have authority to bind the corporation

## SCHEDULE "A"

### Description of Services

1. **"Base Management Services"** will include those functions relating to the day-to-day activities normally associated with the provision of management services, but does not include administrative-type or supervisory functions which is carried out by Electek utilizing its own staff. The types of services included in Base Management Services shall include:
  - (a) Treasury services will include cash flow management, taxation (PILs), GST and PST remittances and corporate VISA card.
  - (b) Controllership services will include financial systems, financial processes, policies and procedures, financial controls and compliance, financial reporting and analysis, annual budgets, financial operations, capitalization and depreciation, allocations and burdens, managing external audit, risk and contract management, liability, D&O, fleet, facilities, OEB reporting, incentive plan reporting, billing system quality control.
  - (c) Audit services include audit reports to Audit Committee and Board of Directors.
  - (d) Human resources services will include programming and consulting including recruitment, compensation and benefits, employee relations, labour relations.
  - (e) IT services will include personal computer systems support and communications support.
  - (f) Safety services will include safety program development, monitoring, reporting, implementation and support.
  - (g) General Management services relate to providing corporate direction, monitoring of progress and reporting to the Board of Directors.
  - (h) New support services will include such new services as may be agreed upon by the parties from time to time with a price to be negotiated at that time.
2. **"Project Management Services"** will include any service similar in nature to the services provided under the definition of Base Management Services, where the services rendered are beyond day-to-day activities. This will include an initiative to review a particular business unit or an assessment of a new business opportunity. Generally, time is docketed to Project Management Services by each manager involved in any initiative anticipated to require a total of eight (8) hours or more of management time.
3. **"Materials Management Services"**, if any, will include sourcing of material and stock-keeping services.

- (a) Sourcing of materials will include sourcing and pricing of special order, as well as routine items that are to be purchased directly by Electek.
  - (b) Stock-keeping services will include the provision of stock items not separately stocked by Electek provided in accordance with a written request from Electek on an as-needed basis.
- 4. **“Fleet Management”**, if any, will include scheduling and maintenance, as well as tracking mileage, maintenance costs and assisting in decisions regarding replacement of vehicles. The services also include reading vehicles for service and carrying out of routine maintenance.
- 5. **“Board of Directors”**, will include an allocation of costs relating to the Board of Directors with shared responsibilities, including annual fees, meeting fees, travel, as well as Directors and Officers Liability insurance.

## **SCHEDULE “B”**

### **Description of Service Standards**

#### **Service Standards**

- (a) BWP Distribution will adhere to industry standards, based on standards set by the WSIB, Electric Utility Safety Association, and Occupational Health & Safety Standards as applicable and in any case shall perform the Services in a good and workmanlike manner and to a standard of performance that a competent professional and diligent independent provider of the services in the same circumstances would reasonably be expected to provide.
- (b) BWP Distribution will make all reasonable efforts to meet or exceed performance measures established by the Ontario Energy Board, Measurement Canada and by the IESO.

## SCHEDULE "C"

### Fees & Charges

	SERVICES	FEES	PERIOD OF FEE
1.	Base Management Services	\$113,743	Annual; (fee subject to 2% inflationary increase on January 1, 2022 and each year thereafter)
2.	Project Management Services	Cost	
3.	Materials Management Services	Sourcing at Cost Stock-keeping at Cost plus a mark-up of 11% on materials	
4.	Fleet Management	\$6,140	Annual; (fee subject to 2% inflationary increase on January 1, 2022 and each year thereafter)
5.	Board of Directors	\$7,942	Annual; (fee subject to 2% inflationary increase on January 1, 2022 and each year thereafter)

Terms & Conditions		
1	Prices	Subject to Applicable Taxes
2	Payment	Monthly invoice, Net 30 days
3	Cost	Shall mean BWP Distribution's fully allocated cost to provide the Services



# **ATTACHMENT 4 – 3**

## **ELECTEK \_ DISTCO COST SHARING AGREEMENT**

## **COST SHARING AGREEMENT**

THIS AGREEMENT made as of the 17<sup>th</sup> day of November 2020,

BETWEEN:

**ELECTEK POWER SERVICES INC.,**  
an Ontario corporation  
(**"Electek"**)

and

**BLUEWATER POWER DISTRIBUTION CORPORATION,**  
an Ontario corporation  
(**"BWP Distribution"**)

WHEREAS:

- A. BWP Distribution carries on the business of distributing electricity within the City of Sarnia, the Town of Petrolia, the Village of Point Edward, the Village of Oil Springs, the Township of Brooke-Alvinston, and the Township of Warwick;
- B. Electek carries on the business of testing and maintenance of high voltage equipment;
- C. Electek requires, from time to time, the services of additional persons, and use of certain equipment; and
- D. BWP Distribution has agreed to make available to Electek certain of its personnel and its equipment and other resources on the terms as set forth in this Agreement.

**NOW THEREFORE** in consideration of the mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### **ARTICLE 1 INTERPRETATION**

#### **1.1 Definitions**

In this Agreement and in the schedules, the following terms and expressions will have the following meanings:

- (a) "Agreement" means this Agreement together with all Schedules attached to it, as they may be amended from time to time;
- (b) "Business Day" means any day other than a Saturday, Sunday, statutory or bank holiday in the Province of Ontario;
- (c) "Claim" has the meaning ascribed to it in Section 4.4;



- (d) "Default" has the meaning ascribed to it in Section 8.1;
- (e) "Defaulting Party" has the meaning ascribed to it in Section 8.1;
- (f) "Effective Date" means January 1, 2021;
- (g) "Event of Default" has the meaning ascribed to it in Section 8.1;
- (h) "Equipment" has the meaning ascribed to it in Section 3.2;
- (i) "Force Majeure Event" has the meaning ascribed to it in Section 11.1;
- (j) "Law" means any law, rule, regulation, code, order, writ, judgement, decree or other legal or regulatory determination by a court, regulatory agency or governmental authority of competent jurisdiction;
- (k) "Leased Premises" has the meaning ascribed to it in Section 3.3;
- (l) "Party" means a party to this Agreement and "Parties" refers to both Electek and BWP Distribution collectively;
- (m) "Person" means an individual, corporation, partnership, joint venture, association, trust, pension fund, union, governmental agency, official, board, tribunal, ministry, commission or department;
- (n) "Personnel" has the meaning ascribed to it in Section 3.1; and
- (o) "Term" has the meaning ascribed to it in Section 2.1 of this Agreement.

## 1.2 Construction of Agreement

In this Agreement:

- (a) words denoting the singular include the plural and vice versa and words denoting any gender include all genders;
- (b) all usage of the word "including" or the phrase "e.g.," in this Agreement shall mean "including, without limitation," throughout this Agreement;
- (c) any reference to a statute shall mean the statute in force as at the date hereof, together with all regulations promulgated under it, as the same may be amended, re-enacted, consolidated or replaced, from time to time, and any successor statute, unless otherwise expressly provided;
- (d) any reference to a specific executive position or an internal division or department of a Party shall include any successor positions, divisions or departments having substantially the same responsibilities or performing substantially the same functions;

- (e) when calculating the period of time within which or following which any act is to be done or step taken, the date which is the reference day in calculating such period shall be excluded, and if the last day of such period is not a Business Day, the period shall end on the next Business Day;
- (f) all dollar amounts are expressed in Canadian dollars;
- (g) the division of this Agreement into separate Articles, Sections, subsections and Schedules and the insertion of headings is for convenience of reference only and shall not affect the construction or interpretation of this Agreement;
- (h) words or abbreviations which have well known or trade meanings are used in accordance with their recognized meanings;
- (i) the terms and conditions are the result of negotiations between the Parties and the Parties therefore agree that this Agreement shall not be construed in favour of or against any Party by reason of the extent to which any Party or its professional advisors participated in the preparation of this Agreement.

## **ARTICLE 2 TERM**

### **2.1 Term**

Unless terminated in accordance with Section 10.1, this Agreement shall come into force on the Effective Date and shall continue in full force and effect for a period of five (5) years. Thereafter, the term shall be automatically renewed for further successive periods of one (1) year each unless a Party gives notice in writing that the Agreement is not to be extended on a date which is at least ninety (90) days prior to the end of the initial five (5) year term, or the end of any renewal term, as the case may be.

## **ARTICLE 3 SERVICES, EQUIPMENT, LEASED PREMISES AND COVENANTS**

### **3.1 Personnel Services**

Subject to the terms, covenants and conditions contained in this Agreement, upon request, BWP Distribution will provide, or cause to be provided, to Electek the services of certain personnel as listed by title under the heading "Services" in Schedule "A" employed by BWP Distribution ("Personnel").

### **3.2 Equipment**

Subject to the terms, covenants and conditions contained in this Agreement, BWP Distribution will also provide to Electek certain equipment owned by BWP Distribution ("Equipment") for use by Electek.

### 3.3 Use of Premises

Electek has not requested and BWP Distribution has not granted exclusive use of any building or facilities owned by BWP Distribution.

### 3.4 BWP Distribution Covenants

- (a) BWP Distribution shall be responsible for obtaining all necessary licences and permits and for complying with all applicable federal, provincial and municipal laws, codes and regulations in connection with the provision of the Services and BWP Distribution shall, when requested, provide Electek with adequate evidence of its compliance with this Section 3.4.
- (b) BWP Distribution's Personnel shall, while providing services to Electek, comply with all the rules and regulations of Electek from time to time in force, which are brought to their notice or of which they should reasonably be aware.
- (c) BWP Distribution shall pay for and maintain for the benefit of BWP Distribution and Electek appropriate insurance concerning the operations and liabilities of BWP Distribution relevant to this Agreement including, without limiting the generality of the foregoing, workplace safety and employment insurance in conformity with applicable statutory requirements in respect of any remuneration payable by BWP Distribution to any employees of BWP Distribution and public liability and property damage insurance.

### 3.5 Electek Covenants

- (a) Electek shall be responsible for obtaining all necessary licences and permits and for complying with all applicable federal, provincial and municipal laws, codes and regulations required to conduct its business and to use the Equipment and the Leased Premises.
- (b) Electek shall not, without BWP Distribution's prior consent, make any alternations, additions or improvements to the Equipment and shall, while using the Equipment, use reasonable care and skill.
- (c) Notwithstanding any other provision of this Agreement, Electek shall be fully responsible for any damage to or loss of any of the Equipment or any portion thereof while the Equipment is in its possession, reasonable wear and tear excepted.
- (d) Electek shall not part with possession of, sell, assign, lease, sublease, rent or otherwise transfer any of the Equipment or any portion of the Leased Premises.
- (e) Electek shall, while utilizing any portion of the Leased Premises, comply with all rules and regulations of BWP Distribution from time to time in force, which are brought to its notice or of which it should reasonably be aware, and shall be responsible for any damage or loss of the Leased Premises or any portion thereof.

- (f) Electek shall use the Leased Premises solely for the purposes described in Section 3.3 above and shall not make or cause to be made any alterations, additions or improvements or erect or cause to be erected any partitions or install or cause to be installed any trade fixtures, signs, floor covering, interior or exterior lighting, plumbing fixtures, apparatus for air-conditioning, cooling, heating, illuminating, refrigerating, or ventilating in the Leased Premises, or make any changes to the Leased Premises without first obtaining BWP Distribution's written approval thereto.
- (g) Electek shall not do or permit to be done or omitted anything which could damage the Leased Premises or injure or impede the business of BWP Distribution conducted from the balance of Main Substation #1 and/or 855 Confederation Street, Sarnia, Ontario (collectively, the "Properties") or which shall or might result in any nuisance in or about the Properties, whether to BWP Distribution, any tenant of the Properties, or any other party, the whole as determined by BWP Distribution, acting reasonably. In any of the foregoing events, Electek shall forthwith remedy the same and if such thing or condition shall not be so remedied, BWP Distribution may, after such notice, if any, as BWP Distribution may deem appropriate in the circumstances, correct such situation at the expense of Electek and Electek shall pay such expense to BWP Distribution.
- (h) Electek shall keep the Leased Premises in a neat, clean and sanitary condition and shall not allow any refuse, garbage or other loose or objectionable or waste material to accumulate in or about such Leased Premises.
- (i) Electek shall permit BWP Distribution access, upon request at any time during the term hereof, to the Leased Premises.

### 3.6 Regulatory Change

If any change of Law after the date of this Agreement renders this Agreement illegal or unenforceable, then the Parties shall be required to renegotiate in good faith for thirty (30) days with a goal of developing a substitute agreement with such amendments as are necessary to comply with such change of Law.

## **ARTICLE 4 MUTUAL COVENANTS**

### 4.1 Confidentiality of Confidential Information

No Personnel of a Party shall have access to any Confidential Information in the possession of the other Party, except for purposes related to the provision of Services and in compliance with the Affiliate Relationship Code for Electricity Distributors and Transmitters prescribed by the Ontario Energy Board.

### 4.2 Maintain Records

The Parties will maintain such records as may be necessary in connection with this Agreement and as are agreed upon by the Parties, acting reasonably.

#### 4.3 Notification of Changes of Circumstances

BWP Distribution shall promptly give written notice to Electek of any changes or prospective changes in circumstances that would materially affect the resources required for the Personnel, Equipment or Leased Premises provided to Electek, including any anticipated material change in the nature or level of business of BWP Distribution, the number of employees of BWP Distribution, the equipment of BWP Distribution or any efforts relating to the organization of or collective bargaining by employees of BWP Distribution, or any lease or service arrangements contemplated with any third parties.

#### 4.4 Notice of Claims, Etc.

BWP Distribution shall promptly give written notice to Electek, and Electek shall promptly give written notice to BWP Distribution, of all material claims, proceedings, notice of regulatory non-compliance from any regulatory authority, disputes (including labour disputes) or litigation (collectively, "Claims") which it reasonably believes could have a material adverse effect on the fulfillment of any of the material terms hereof by BWP Distribution or Electek (whether or not any such Claim is covered by insurance) in respect of its own operations of which any of them is aware. Each Party shall provide the other Party with all information reasonably requested from time to time concerning the status of such Claims and any developments relating thereto.

### **ARTICLE 5 FEES AND COSTS**

#### 5.1 Fees

As consideration for the Personnel, Equipment and Leased Premises provided, Electek shall pay to BWP Distribution the fees and charges set out in Schedule "A". BWP Distribution shall render a monthly invoice for all Personnel and Equipment provided to Electek, as well as for use of the Leased Premises, during the preceding month, which invoice shall be due and payable within thirty (30) days of receipt.

#### 5.2 Out of Pocket and Third Party Expenses

BWP Distribution shall be reimbursed for all out-of-pocket expenses actually and properly incurred by BWP Distribution in connection with the provision of Personnel, Equipment and/or the Leased Premises.

#### 5.3 Taxes

Electek shall pay to BWP Distribution any and all goods and services taxes, sales taxes, value-added taxes and/or any other taxes (excluding income taxes) properly eligible on the supply of Personnel, Equipment and/or Leased Premises provided under this Agreement and on any other amounts payable hereunder.

## **ARTICLE 6 REPRESENTATIONS AND WARRANTIES**

### **6.1 Representations and Warranties of BWP Distribution**

BWP Distribution represents and warrants to Electek as follows and acknowledges that Electek is relying on such representations and warranties:

- (a) BWP Distribution is a corporation duly incorporated and validly existing under the laws of the Province of Ontario and has the rights, powers and privileges to execute and deliver this Agreement and to perform its obligations hereunder;
- (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate action;
- (c) this Agreement constitutes a legal, valid and binding obligation of BWP Distribution, enforceable against BWP Distribution by Electek in accordance with its terms except as may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction; and
- (d) BWP Distribution has the necessary resources and expertise to acquire or perform the Services.

### **6.2 Representations and Warranties of Electek**

Electek represents and warrants to BWP Distribution as follows and acknowledges that BWP Distribution is relying on such representations and warranties:

- (a) Electek is a corporation duly incorporated and validly existing under the laws of the Province of Ontario and has the rights, powers and privileges to execute and deliver this Agreement and to perform its obligations hereunder;
- (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate actions; and
- (c) this Agreement constitutes a legal, valid and binding obligation of Electek, enforceable against Electek by BWP Distribution in accordance with its terms except as may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction.

## **ARTICLE 7 INDEMNIFICATION**

### **7.1 Indemnification**

- (a) Electek shall indemnify, defend and hold harmless BWP Distribution, its officers, directors, and employees (each a "BWP Distribution Indemnatee") from and against any and all claims, demands, suits, losses, liabilities, damages, obligations, payments,



costs and expenses and accrued interest thereon (including the costs and expenses of, and accrued interest in respect of, any and all actions, suits, proceedings, assessments, judgements, awards, settlements and compromises relating thereto and reasonable lawyers' fees and reasonable disbursements in connection therewith) (each an "Indemnifiable Loss"), asserted against or suffered by any BWP Distribution Indemnitee relating to, or in connection with, or resulting from or arising out of the provision of services of the Personnel provided hereunder, use of the Equipment by Electek and/or possession, occupation and/or use of the Leased Premises by Electek.

- (b) BWP Distribution shall be deemed to hold the provisions of Section 7.1(a) that are for the benefit of BWP Distribution Indemnitees that are not party to this Agreement in trust for such persons as third party beneficiaries under this Agreement.

## 7.2 Limit of Liability

- (a) Should BWP Distribution be held liable by a court of law for any reason outside of the Indemnity under Section 7.1(a), Electek agrees that BWP Distribution's liability to Electek or any third party in connection with or arising under this Agreement, including without limitation, any liability arising from any act or omission of BWP Distribution in the provision of the Personnel, Equipment and/or the Leased Premises, whether arising in contract, tort, equity or otherwise, shall be limited to actions or liabilities resulting solely from the fraud or wilful misconduct of BWP Distribution in the provision of the Personnel, Equipment and/or the Leased Premises and shall not exceed an amount equal to the total amount paid by Electek to BWP Distribution under this Agreement for Personnel, Equipment and Leased Premises over the twelve month period immediately preceding the date that the cause of action or claim giving rise to the liability first arose.
- (b) BWP Distribution shall not be liable for any damages caused by delay in delivering or furnishing any Personnel, Equipment or Leased Premises referred to in this Agreement.

## 7.3 Fines, Etc.

Notwithstanding anything else to the contrary in this Agreement, the Parties agree that BWP Distribution shall not be responsible for any sanctions, fines, penalties, or similar obligations imposed on Electek, and Electek agrees to indemnify and hold harmless BWP Distribution from any such sanctions fines, penalties or similar obligations.

# ARTICLE 8 DEFAULT

## 8.1 Events of Default

The occurrence of any one or more of the following events shall constitute a default (a "Default") by a Party (the "Defaulting Party") under this Agreement and shall constitute an "Event of Default" if such Default is not remedied prior to the expiry of any notice period and any cure period applicable to such Default:

- (a) if the Defaulting Party defaults in the payment of any amount due to the other Party under this Agreement and such default shall continue unremedied for sixty (60) days following notice in writing thereof to the Defaulting Party by the other Party; or
- (b) if the Defaulting Party fails in any material respect to perform or observe any of its other material obligations under this Agreement and such failure shall continue unremedied for a period of sixty (60) days following notice in writing thereof (giving particulars of the failure in reasonable detail) from the other Party to the Defaulting Party or such longer period as may be reasonably necessary to cure such failure (if such failure is capable of being cured), provided that the Defaulting Party:
  - (i) proceeds with all due diligence to cure or cause to be cured such failure; and
  - (ii) in proceeding so, can be reasonably expected to cure or cause to be cured such failure within a reasonable time frame acceptable to the other Party acting reasonably.

## **ARTICLE 9 REMEDIES**

### **9.1 Default Remedies**

- (a) Unless otherwise agreed to in writing, in the event of an Event of Default the non-defaulting Party may terminate this Agreement as it relates to the non-defaulting Party upon notice in writing and all amounts payable by the defaulting Party hereunder shall become due and payable forthwith.
- (b) The remedies in this section are expressly in lieu of any or all of the remedies, which may be available to each of BWP Distribution and Electek in respect of or under this Agreement resulting from the furnishing, the failure to furnish or the quality of any Services.

## **ARTICLE 10 TERMINATION**

### **10.1 Termination**

This Agreement shall terminate:

- (a) in accordance with the provisions of Section 9.1; or
- (b) upon issuance of a notice of non-renewal in accordance with Section 2.1.

### **10.2 Notice of Termination**

Any termination hereof pursuant to Section 10.1 shall be by written notice of the terminating Party.



## **ARTICLE 11 GENERAL**

### **11.1 Force Majeure**

No Party shall be liable for a failure or delay in the performance of its obligations pursuant to this Agreement:

- (a) provided that such failure or delay could not have been prevented by reasonable precautions;
- (b) provided that such failure or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, work around plans or other means; and
- (c) if and to the extent such failure or delay is caused, directly or indirectly, by fire, flood, earthquake, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions, strikes, lock outs or labour disruptions or revolutions in Canada, or any other similar causes beyond the reasonable control of such Party, (each a "Force Majeure Event").

Upon the occurrence of a Force Majeure Event, the non-performing Party shall be excused from any further performance of those of its obligations pursuant to this Agreement affected by the Force Majeure Event only for so long as:

- (i) such Force Majeure Event continues; and
- (ii) such Party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

The Party delayed by a Force Majeure Event shall:

- (a) immediately notify the other Parties by telephone (to be confirmed in writing within five (5) days of the inception of such delay) of the occurrence of a Force Majeure Event; and
- (b) describe in reasonable detail the circumstances causing the Force Majeure Event.

### **11.2 Dispute Resolution**

If any dispute arising in relation to an Event of Default under Section 8.1(b) or the implementation of the cure for the Default under Section 8.1(b) cannot be resolved by negotiation between the Parties, then the dispute shall be referred to one arbitrator agreeable to and appointed by both Parties. If the Parties cannot agree on one arbitrator, the matter in dispute shall be referred to a panel of three arbitrators, one of which shall be appointed by BWP Distribution, one of which shall be appointed by Electek and the third shall be appointed by the two arbitrators selected by BWP Distribution and Electek. The arbitrator or arbitrators shall receive such oral and written evidence as may be required to investigate the matter in dispute and to render a decision and shall be guided by this Agreement and the intent of this Agreement. The decision of the arbitrator or arbitrators shall

be provided in writing to the Parties no later than thirty (30) days after the sole arbitrator or the third arbitrator has been appointed. The decision of the arbitrator or arbitrators shall be final and binding on the Parties.

### 11.3 Assignment

Neither Party shall, without the written consent of the other Party, which may be arbitrarily withheld in the sole discretion of a Party, assign or transfer its interest in this Agreement. This Agreement shall be binding on the Parties and their respective successors and permitted assigns. Any purported assignment in contravention of this Agreement shall be void.

### 11.4 Notices

All notices, request, approvals, consents and other communications required or permitted under this Agreement shall be in writing and addressed as follows:

(a) if to Electek,

P.O. Box 2140  
855 Confederation Street  
Sarnia, ON N7T 7L6

Attn: Mark Delaurier  
Fax: 519-383-1333  
Email: [mdelaurier@electek.ca](mailto:mdelaurier@electek.ca)

(b) if to BWP Distribution,

P.O. Box 2140  
855 Confederation Street  
Sarnia, ON N7T 7L6

Attn: Janice McMichael-Dennis  
Fax: 519-344-6094  
Email: [jmcmichael-dennis@bluewaterpower.com](mailto:jmcmichael-dennis@bluewaterpower.com)

and shall be sent by fax and the Party sending such notice shall telephone to confirm receipt. A copy of any such notice shall also be sent on the date such notice is transmitted by fax, by email, by registered express mail or courier with the capacity to verify receipt of delivery. Either Party may change its address or fax number for notification purposes by giving the other Party notice of the new address or fax number and the date upon which it will become effective in accordance with the terms of this Agreement. A notice shall be deemed to have been received as of the next Business Day following its transmission by fax.

### 11.5 Severability

If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable or contrary to law, then the remaining provisions of this Agreement, or the application of such provisions to persons or circumstances other than those as to which it is invalid or unenforceable

shall not be affected thereby, and each such provision of this Agreement shall be valid and enforceable to the extent granted by law. If any clause is deemed unenforceable or contrary to law, the parties shall alter the said clause and this agreement to produce enforceability or compliance with law such that the intent of the original clause is maintained and such change or alteration may be established through the dispute resolution clause in this agreement.

#### 11.6 Waiver

No delay or omission by a Party to exercise any right or power it has under this Agreement or to object to the failure of any covenant of the other Party to be performed in a timely and complete manner, shall impair any such right or power or be construed as a waiver of any succeeding breach or any other covenant. All waivers must be in writing and signed by the Party waiving its rights.

#### 11.7 Entire Agreement

This Agreement constitutes the entire Agreement between the Parties with respect to the subject matter hereof, and there are no other representations, understandings or agreements, either oral or written, between the Parties other than as set out in this Agreement.

#### 11.8 Amendments

No amendment to, or change, waiver or discharge of, any provision of this Agreement shall be valid unless in writing and signed by authorized representatives of each Party.

#### 11.9 Governing Law

This Agreement shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein. The Parties hereby agree that the courts of the Province of Ontario shall have exclusive jurisdiction over disputes under this Agreement, and the Parties agree that jurisdiction and venue in such courts is appropriate and irrevocably attach to the jurisdiction of such courts.

#### 11.10 Survival

The terms of Article 7, Article 9 and Article 11 shall survive the expiration of this Agreement or termination of this Agreement for any reason.

#### 11.11 Third Party Beneficiaries

Each Party intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any person or entity other than the Parties.

#### 11.12 Covenant of Further Assurances

The Parties agree that, subsequent to the execution and delivery of this Agreement and without any additional consideration, the Parties shall execute and deliver or cause to be executed and delivered any further legal instruments and perform any acts, which are or may become necessary to effectuate the purposes of this Agreement and to complete the transactions contemplated under it.

11.13 Independent Contractors

The Parties are independent contractors and BWP Distribution shall not be considered to be an agent of Electek. It is further understood and agreed that this Agreement does not constitute a partnership or joint venture between the Parties.

IN WITNESS WHEREOF, this Agreement has been executed by the duly authorized signatories of the parties hereto as of the date first written above.

**ELECTEK POWER SERVICES INC.**

Per:

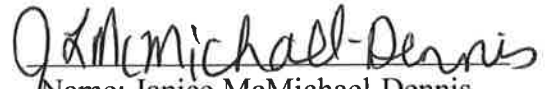


Name: Mark Delaurier  
Title: Vice President

I/we have authority to bind the corporation

**BLUEWATER POWER  
DISTRIBUTION CORPORATION**

Per:



Name: Janice McMichael-Dennis  
Title: CEO

I/we have authority to bind the corporation

## SCHEDULE "A"

### Fees & Charges

	SERVICES	FEES	PERIOD OF FEE
1.	Linemen	Cost	Monthly
2.	Other Personnel	Cost	Monthly
3.	Equipment use	Cost	Monthly

Terms & Conditions		
1	Prices	Subject to Applicable Taxes
2	Payment	Monthly invoice, Net 30 days
3	Cost	BWP Distribution's fully allocated cost



# **ATTACHMENT 4 – 4**

## **SERVCO \_ DISTCO MANAGEMENT SERVICES AGREEMENT**

## MANAGEMENT SERVICES AGREEMENT

THIS MANAGEMENT SERVICES AGREEMENT made as of the 17<sup>th</sup> day of November, 2020,

BETWEEN:

**BLUEWATER POWER SERVICES CORPORATION,**  
an Ontario corporation  
("BPSC")

and

**BLUEWATER POWER DISTRIBUTION CORPORATION,**  
an Ontario corporation  
("BWP Distribution")

WHEREAS:

A. BWP Distribution carries on the business of distributing electricity within the City of Sarnia, the Town of Petrolia, the Village of Point Edward, the Village of Oil Springs, The Municipality of Brooke-Alvinston, and the Township of Warwick;

B. BPSC carries on the business of water meter installation and maintenance, water billing, street light installation and maintenance, traffic light installation and maintenance and miscellaneous on demand line work, as well as civil work and ad hoc maintenance services; and

C. BWP Distribution agrees to provide certain services to BPSC on the terms as set forth in this Agreement.

**NOW THEREFORE** in consideration of the mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### ARTICLE 1 INTERPRETATION

#### 1.1 Definitions

In this Agreement and in the Schedules, the following terms and expressions will have the following meanings:

- (a) "Agreement" means this Services Agreement together with all Schedules attached to it, as they may be amended from time to time;
- (b) "Business Day" means any day other than a Saturday, Sunday, statutory or bank holiday in the Province of Ontario;
- (c) "Claim" has the meaning ascribed to it in Section 4.4;

- (d) “Confidential Information” means information BWP Distribution has obtained relating to a specific consumer, retailer and/or generator in the process of providing current or prospective distribution service;
- (e) “Default” has the meaning ascribed to it in Section 8.1;
- (f) “Defaulting Party” has the meaning ascribed to it in Section 8.1;
- (g) “Effective Date” means January 1, 2021;
- (h) “Event of Default” has the meaning ascribed to it in Section 8.1;
- (i) “Force Majeure Event” has the meaning ascribed to it in Section 11.1;
- (j) “IESO” means the Independent Electricity System Operator;
- (k) “Law” means any law, rule, regulation, code, order, writ, judgement, decree or other legal or regulatory determination by a court, regulatory agency, including the IESO, or governmental authority of competent jurisdiction;
- (l) “Party” means a party to this Agreement and “Parties” refers to both BPSC and BWP Distribution collectively;
- (m) “Person” means an individual, corporation, partnership, joint venture, association, trust, pension fund, union, governmental agency, official, board, tribunal, ministry, commission or department;
- (n) “Personnel” means employees, agents, professional advisors, contractors and subcontractors;
- (o) “Services” has the meaning ascribed to it in Section 3.1 of this Agreement;
- (p) “Service Standards” has the meaning ascribed to it in Section 3.2 of this Agreement;
- (q) “Term” has the meaning ascribed to it in Section 2.1 of this Agreement; and
- (r) “Third Party Expenses” means all fees, costs and charges paid to third parties by BWP Distribution on behalf of BPSC in connection with providing the Services or incurred by BWP Distribution’s employees while providing Services under this Agreement.

## 1.2 Construction of Agreement

In this Agreement:

- (a) words denoting the singular include the plural and vice versa and words denoting any gender include all genders;
- (b) all usage of the word “including” or the phrase “e.g.,” in this Agreement shall mean “including, without limitation,” throughout this Agreement;



- (c) any reference to a statute shall mean the statute in force as at the date hereof, together with all regulations promulgated under it, as the same may be amended, re-enacted, consolidated or replaced, from time to time, and any successor statute, unless otherwise expressly provided;
- (d) any reference to a specific executive position or an internal division or department of a Party shall include any successor positions, divisions or departments having substantially the same responsibilities or performing substantially the same functions;
- (e) when calculating the period of time within which or following which any act is to be done or step taken, the date which is the reference day in calculating such period shall be excluded, and if the last day of such period is not a Business Day, the period shall end on the next Business Day;
- (f) all dollar amounts are expressed in Canadian dollars;
- (g) the division of this Agreement into separate Articles, Sections, subsections and Schedules and the insertion of headings is for convenience of reference only and shall not affect the construction or interpretation of this Agreement;
- (h) words or abbreviations which have well known or trade meanings are used in accordance with their recognized meanings;
- (i) the terms and conditions are the result of negotiations between the Parties and the Parties therefore agree that this Agreement shall not be construed in favour of or against any Party by reason of the extent to which any Party or its professional advisors participated in the preparation of this Agreement.

## **ARTICLE 2**

### **TERM**

#### **2.1    Term**

Unless terminated in accordance with Section 10.1, this Agreement shall come into force on the Effective Date and shall continue in full force and effect for a period of five (5) years. Thereafter, the term shall be automatically renewed for further successive periods of one (1) year each unless a Party gives notice in writing that the Agreement is not to be extended on a date which is at least ninety (90) days prior to the end of the initial five (5) year term, or the end of any renewal term, as the case may be.

## **ARTICLE 3**

### **BWP DISTRIBUTION SERVICES AND COVENANTS**

#### **3.1    Services**

Subject to the terms, covenants and conditions contained in this Agreement, BWP Distribution will provide, or cause to be provided, to BPSC the services set out in Schedule "A" (collectively the "Services"), as may be required by BPSC.

### 3.2 Service Standards

BWP Distribution will provide the Services to BPSC, or cause them to be provided, to the standards set out in Schedule "B" (collectively the "Service Standards").

### 3.3 Changes

BPSC and BWP Distribution may, from time to time, during the term of this Agreement agree to modifications to a Service or a Service Standard by negotiating appropriate changes to the description of the Service or the Service Standard, as applicable, and the necessary associated amendments to the consideration for such Service or Service Standard. As evidence of such modifications, the Parties shall initial and attach amended Schedule(s) in this Agreement.

### 3.4 General BWP Distribution Covenants

- (a) BWP Distribution shall, when requested, provide BPSC with adequate evidence of its compliance with this Section 3.4.
- (b) BWP Distribution shall, while on site at any premises used by BPSC, comply with all the rules and regulations of BPSC from time to time in force, which are brought to its notice or of which it should reasonably be aware.
- (c) BWP Distribution shall pay for and maintain for the benefit of BWP Distribution and BPSC appropriate insurance concerning the operations and liabilities of BWP Distribution relevant to this Agreement including, without limiting the generality of the foregoing, workplace safety and employment insurance in conformity with applicable statutory requirements in respect of any remuneration payable by BWP Distribution to any employees of BWP Distribution and public liability and property damage insurance.

### 3.5 BPSC Covenants

- (a) BPSC shall be responsible for obtaining all necessary licences and permits and for complying with all applicable federal, provincial and municipal laws, codes and regulations required to conduct its business and to use the property of BWP Distribution.
- (b) BPSC shall pay for and maintain for the benefit of BPSC and BWP Distribution appropriate insurance concerning the operations and liabilities of BPSC relevant to this Agreement including, without limiting the generality of the foregoing, workplace safety and employment insurance in conformity with applicable statutory requirements in respect of any remuneration payable by BPSC to any employees of BPSC and public liability and property damage insurance.
- (c) BPSC shall not, without BWP Distribution's prior consent, make any alternations, additions or improvements to the property of BWP Distribution and shall, while using the property of BWP Distribution, use reasonable care and skill.

### 3.6 Regulatory Change

If any change of Law after the date of this Agreement renders this Agreement illegal or unenforceable, then the Parties shall be required to renegotiate in good faith for thirty (30) days with a goal of developing a substitute agreement with such amendments as are necessary to comply with such change of Law.

## **ARTICLE 4 MUTUAL COVENANTS**

### 4.1 Confidentiality of Confidential Information

No Personnel of a Party shall have access to any Confidential Information in the possession of the other Party, except for purposes related to the provision of Services and in compliance with the Affiliate Relationship Code for Electricity Distributors and Transmitters prescribed by the Ontario Energy Board.

### 4.2 Maintain Records

The Parties will maintain such records as may be necessary in connection with this Agreement and as are agreed upon by the Parties, acting reasonably.

### 4.3 Notification of Changes of Circumstances

BWP Distribution shall promptly give written notice to BPSC of any changes or prospective changes in circumstances that would materially affect the resources required for the Services provided to BPSC, including any anticipated material change in the nature or level of business of BWP Distribution, the number of employees of BWP Distribution, or any efforts relating to the organization of or collective bargaining by employees of BWP Distribution, or any lease or service arrangements contemplated with any third party.

### 4.4 Notice of Claims, Etc.

BWP Distribution shall promptly give written notice to BPSC, and BPSC shall promptly give written notice to BWP Distribution, of all material claims, proceedings, notice of regulatory non-compliance from any regulatory authority, disputes (including labour disputes) or litigation (collectively, "Claims") which it reasonably believes could have a material adverse effect on the fulfillment of any of the material terms hereof by BWP Distribution or BPSC (whether or not any such Claim is covered by insurance) in respect of its own operations of which either of them is aware. Each Party shall provide the other Party with all information reasonably requested from time to time concerning the status of such Claims and any developments relating thereto.

## **ARTICLE 5 FEES AND COSTS**

### **5.1    Fees**

As consideration for the Services provided, BPSC shall pay to BWP Distribution the fees and charges set out in Schedule "C". BWP Distribution shall render a quarterly invoice for all Services provided to BPSC during the preceding month, which invoice shall be due and payable within thirty (30) days of receipt.

### **5.2    Out of Pocket and Third Party Expenses**

BWP Distribution shall be reimbursed for all out-of-pocket expenses and Third Party Expenses actually and properly incurred by BWP Distribution in connection with the performance of Services hereunder.

### **5.3    Taxes**

BPSC shall pay to BWP Distribution any and all goods and harmonized sales tax, value-added taxes and/or any other taxes (excluding income taxes) properly eligible on the supply of Services provided under this Agreement and on any other amounts payable hereunder.

## **ARTICLE 6 REPRESENTATIONS AND WARRANTIES**

### **6.1    Representations and Warranties of BWP Distribution**

BWP Distribution represents and warrants to BPSC as follows and acknowledges that BPSC is relying on such representations and warranties:

- (a) BWP Distribution is a corporation duly incorporated and validly existing under the laws of the Province of Ontario and has the rights, powers and privileges to execute and deliver this Agreement and to perform its obligations hereunder;
- (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate action;
- (c) this Agreement constitutes a legal, valid and binding obligation of BWP Distribution, enforceable against BWP Distribution by BPSC in accordance with its terms except as may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction; and
- (d) BWP Distribution has the necessary resources and expertise to acquire or perform the Services.

### **6.2    Representations and Warranties of BPSC**

BPSC represents and warrants to BWP Distribution as follows and acknowledges that BWP Distribution is relying on such representations and warranties:

- (a) BPSC is a corporation duly incorporated and validly existing under the laws of the Province of Ontario and has the rights, powers and privileges to execute and deliver this Agreement and to perform its obligations hereunder;
- (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate actions; and
- (c) this Agreement constitutes a legal, valid and binding obligation of BPSC, enforceable against BPSC by BWP Distribution in accordance with its terms except as may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction.

### 6.3 Warranty

The Services provided by BWP Distribution will be performed in a professional and workmanlike manner in accordance with the Service Standards, however, the Services are provided without warranty.

## **ARTICLE 7 INDEMNIFICATION**

### 7.1 Indemnification

- (a) BPSC shall indemnify, defend and hold harmless BWP Distribution, its officers, directors, and employees (each a "BWP Distribution Indemnatee") from and against any and all claims, demands, suits, losses, liabilities, damages, obligations, payments, costs and expenses and accrued interest thereon (including the costs and expenses of, and accrued interest in respect of, any and all actions, suits, proceedings, assessments, judgements, awards, settlements and compromises relating thereto and reasonable lawyers' fees and reasonable disbursements in connection therewith) (each an "Indemnifiable Loss"), asserted against or suffered by any BWP Distribution Indemnities relating to, or in connection with, or resulting from or arising out of the provision of the Services by BWP Distribution.
- (b) BWP Distribution shall be deemed to hold the provisions of Section 7.1(a) that are for the benefit of BWP Distribution Indemnities that are not party to this Agreement in trust for such persons as third party beneficiaries under this Agreement.

### 7.2 Limit of Liability

- (a) Should BWP Distribution be held liable by a court of law for any reason, BPSC agrees that BWP Distribution's liability to BPSC or any third party in connection with or arising under this Agreement, including without limitation, any liability arising from any act or omission of BWP Distribution in the provision of the Services, whether arising in contract, tort, equity or otherwise, shall be limited to, and BPSC shall indemnify BWP Distribution from, actions or liabilities resulting solely from the fraud or wilful misconduct of BWP Distribution in the provision of the Services and shall not exceed an amount equal to the total amount paid by BPSC

to BWP Distribution under this Agreement for Services over the twelve month period immediately preceding the date that the cause of action or claim giving rise to the liability first arose.

- (b) BWP Distribution shall not be liable for any damages caused by delay in delivering or furnishing any Services referred to in this Agreement.

### 7.3 Fines, Etc.

Notwithstanding anything else to the contrary in this Agreement, the Parties agree that BWP Distribution shall not be responsible for any sanctions, fines, penalties, or similar obligations imposed on BPSC, and BPSC agrees to indemnify and hold harmless BWP Distribution from any such sanctions fines, penalties or similar obligations.

## **ARTICLE 8 DEFAULT**

### 8.1 Events of Default

The occurrence of any one or more of the following events shall constitute a default (a "Default") by a Party (the "Defaulting Party") under this Agreement and shall constitute an "Event of Default" if such Default is not remedied prior to the expiry of any notice period and any cure period applicable to such Default:

- (a) if the Defaulting Party defaults in the payment of any amount due to the other Party under this Agreement and such default shall continue unremedied for sixty (60) days following notice in writing thereof to the Defaulting Party by the other Party; or
- (b) if the Defaulting Party fails in any material respect to perform or observe any of its other material obligations under this Agreement and such failure shall continue unremedied for a period of sixty (60) days following notice in writing thereof (giving particulars of the failure in reasonable detail) from the other Party to the Defaulting Party or such longer period as may be reasonably necessary to cure such failure (if such failure is capable of being cured), provided that the Defaulting Party:
  - (i) proceeds with all due diligence to cure or cause to be cured such failure; and
  - (ii) in proceeding so, can be reasonably expected to cure or cause to be cured such failure within a reasonable time frame acceptable to the other Party acting reasonably.

## **ARTICLE 9 REMEDIES**

### **9.1 Default Remedies**

- (a) Unless otherwise agreed to in writing, in the event of an Event of Default the non-defaulting Party may terminate this Agreement as it relates to the non-defaulting Party upon notice in writing and all amounts payable by the defaulting Party hereunder shall become due and payable forthwith.
- (b) The remedies in this section are expressly in lieu of any or all of the remedies which may be available to each of BWP Distribution and BPSC in respect of or under this Agreement resulting from the furnishing, the failure to furnish or the quality of any Services.

## **ARTICLE 10 TERMINATION**

### **10.1 Termination**

This Agreement shall terminate:

- (a) in accordance with the provisions of Section 9.1; or
- (b) upon issuance of a notice of non-renewal in accordance with Section 2.1.

### **10.2 Notice of Termination**

Any termination hereof pursuant to Section 10.1 shall be by written notice of the terminating Party.

## **ARTICLE 11 GENERAL**

### **11.1 Force Majeure**

No Party shall be liable for a failure or delay in the performance of its obligations pursuant to this Agreement:

- (a) provided that such failure or delay could not have been prevented by reasonable precautions;
- (b) provided that such failure or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, work around plans or other means; and
- (c) if and to the extent such failure or delay is caused, directly or indirectly, by fire, flood, earthquake, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions, strikes, lock outs or labour disruptions or revolutions in Canada, or any other similar causes beyond the reasonable control of such Party, (each a "Force Majeure Event").

Upon the occurrence of a Force Majeure Event, the non-performing Party shall be excused from any further performance of those of its obligations pursuant to this Agreement affected by the Force Majeure Event only for so long as:

- (i) such Force Majeure Event continues; and
- (ii) such Party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

The Party delayed by a Force Majeure Event shall:

- (a) immediately notify the other Parties by telephone (to be confirmed in writing within five (5) days of the inception of such delay) of the occurrence of a Force Majeure Event; and
- (b) describe in reasonable detail the circumstances causing the Force Majeure Event.

#### 11.2 Dispute Resolution

If any dispute arising in relation to an Event of Default under Section 8.1(b) or the implementation of the cure for the Default under Section 8.1(b) cannot be resolved by negotiation between the Parties, then the dispute shall be referred to one arbitrator agreeable to and appointed by both Parties. If the Parties cannot agree on one arbitrator, the matter in dispute shall be referred to a panel of three arbitrators, one of which shall be appointed by BWP Distribution, one of which shall be appointed by BPSC and the third shall be appointed by the two arbitrators selected by BWP Distribution and BPSC. The arbitrator or arbitrators shall receive such oral and written evidence as may be required to investigate the matter in dispute and to render a decision and shall be guided by this Agreement and the intent of this Agreement. The decision of the arbitrator or arbitrators shall be provided in writing to the Parties no later than thirty (30) days after the sole arbitrator or the third arbitrator has been appointed. The decision of the arbitrator or arbitrators shall be final and binding on the Parties.

#### 11.3 Assignment

Neither Party shall, without the written consent of the other Party, which may be arbitrarily withheld in the sole discretion of a Party, assign or transfer its interest in this Agreement. This Agreement shall be binding on the Parties and their respective successors and permitted assigns. Any purported assignment in contravention of this Agreement shall be void.

#### 11.4 Notices

All notices, request, approvals, consents and other communications required or permitted under this Agreement shall be in writing and addressed as follows:

- (a) if to BPSC,

P.O. Box 2140  
855 Confederation Street  
Sarnia, ON N7T 7L6



Attn: Liz Kelly  
Fax: 519-332-3878  
Email: [lkelly@bluewaterpower.com](mailto:lkelly@bluewaterpower.com)

(b) if to BWP Distribution,

P.O. Box 2140  
855 Confederation Street  
Sarnia, ON N7T 7L6

Attn: Janice McMichael-Dennis  
Fax: 519-344-6094  
Email: [jmcmichael-dennis@bluewaterpower.com](mailto:jmcmichael-dennis@bluewaterpower.com)

and shall be sent by fax and the Party sending such notice shall telephone to confirm receipt. A copy of any such notice shall also be sent on the date such notice is transmitted by fax, by email, by registered express mail or courier with the capacity to verify receipt of delivery. Either Party may change its address or fax number for notification purposes by giving the other Party notice of the new address or fax number and the date upon which it will become effective in accordance with the terms of this Agreement. A notice shall be deemed to have been received as of the next Business Day following its transmission by fax.

#### 11.5 Severability

If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable or contrary to law, then the remaining provisions of this Agreement, or the application of such provisions to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each such provision of this Agreement shall be valid and enforceable to the extent granted by law. If any clause is deemed unenforceable or contrary to law, the parties shall alter the said clause and this agreement to produce enforceability or compliance with law such that the intent of the original clause is maintained and such change or alteration may be established through the dispute resolution clause in this agreement.

#### 11.6 Waiver

No delay or omission by a Party to exercise any right or power it has under this Agreement or to object to the failure of any covenant of the other Party to be performed in a timely and complete manner, shall impair any such right or power or be construed as a waiver of any succeeding breach or any other covenant. All waivers must be in writing and signed by the Party waiving its rights.

#### 11.7 Entire Agreement

This Agreement supersedes any prior agreement between BWP Distribution and BPSC in relation to the Services provided for in this Agreement, and constitutes the entire Agreement between the Parties with respect to the Services, and there are no other representations, understandings or agreements, either oral or written, between the Parties other than as set out in this Agreement.

#### 11.9 Governing Law

This Agreement shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein. The Parties hereby agree that the courts of the Province of Ontario shall have exclusive jurisdiction over disputes under this Agreement, and the Parties agree that jurisdiction and venue in such courts is appropriate and irrevocably attach to the jurisdiction of such courts.

#### 11.10 Survival

The terms of Article 7, Article 9 and Article 11 shall survive the expiration of this Agreement or termination of this Agreement for any reason.

#### 11.11 Third Party Beneficiaries

Each Party intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any person or entity other than the Parties.

#### 11.12 Covenant of Further Assurances

The Parties agree that, subsequent to the execution and delivery of this Agreement and without any additional consideration, the Parties shall execute and deliver or cause to be executed and delivered any further legal instruments and perform any acts which are or may become necessary to effectuate the purposes of this Agreement and to complete the transactions contemplated under it.

#### 11.13 Independent Contractors

The Parties are independent contractors and neither BWP Distribution nor any of its employees shall be considered to be an agent or employee of BPSC. Each of the Parties shall be solely responsible for each of its own employees. It is further understood and agreed that this Agreement does not constitute a partnership, joint venture or employment agreement between the Parties.

IN WITNESS WHEREOF this Agreement has been executed by the duly authorized signatories of the parties hereto as of the date first written above.

**BLUEWATER POWER SERVICES  
CORPORATION**

Per: 

Name: Mark Delaurier

Title: Vice President

I have authority to bind the corporation

**BLUEWATER POWER DISTRIBUTION  
CORPORATION**

Per: 

Name: Janice McMichael-Dennis

Title: President and C.E.O.

I have authority to bind the corporation

## SCHEDULE "A"

### Description of Services

1. **"Base Management Services"** will include those functions relating to the day-to-day activities normally associated with the provision of management services, but does not include administrative-type or supervisory functions which is carried out by BPSC utilizing its own staff. The types of services included in Base Management Services shall include:
  - (a) Treasury services will include cash flow management, banking, accounts payable services, account receivables, taxation (PILs), GST and PST remittances and corporate VISA card.
  - (b) Controllership services will include financial systems, financial processes, policies and procedures, financial controls and compliance, financial reporting and analysis, annual budgets, financial operations, billing, collecting, capitalization and depreciation, WIP and inventory, labour charging, allocations and burdens, managing external audit, risk and contract management, insurance programs, liability, D&O, fleet, facilities, OEB reporting, incentive plan reporting, billing system quality control.
  - (c) Audit services include audit reports to Audit Committee and Board of Directors.
  - (d) Human resources services will include programming and consulting including recruitment, compensation and benefits, employee relations, labour relations.
  - (e) IT services will include personal computer systems support and communications support.
  - (f) Safety services will include safety program development, monitoring, reporting, implementation and support.
  - (g) General Management services relate to providing corporate direction, monitoring of progress and reporting to the Board of Directors.
  - (h) New support services will include such new services as may be agreed upon by the parties from time to time with a price to be negotiated at that time.
2. **"Project Management Services"** will include any service similar in nature to the services provided under the definition of Base Management Services, where the services rendered are beyond day-to-day activities. This will include an initiative to review a particular business unit or an assessment of a new business opportunity. Generally, time is docketed to Project Management Services by each manager involved in any initiative anticipated to require a total of eight (8) hours or more of management time.

3. **“Materials Management Services”**, if any, will include sourcing of material and stock-keeping services.
  - (a) Sourcing of materials will include sourcing and pricing of special order, as well as routine items that are to be purchased directly by BPSC.
  - (b) Stock-keeping services will include the provision of stock items not separately stocked by BPSC provided in accordance with a written request from BPSC on an as-needed basis.
4. **“Fleet Management”**, if any, will include scheduling and maintenance, as well as tracking mileage, maintenance costs and assisting in decisions regarding replacement of vehicles. The services also include reading vehicles for service and carrying out of routine maintenance.
5. **“Board of Directors”**, will include an allocation of costs relating to the Board of Directors with shared responsibilities, including annual fees, meeting fees, travel, as well as Directors and Officers Liability insurance.

## **SCHEDULE "B"**

### **Description of Service Standards**

#### **Service Standards**

- (a) BWP Distribution will adhere to industry standards, based on standards set by the WSIB, Electric Utility Safety Association, and Occupational Health & Safety Standards as applicable and in any case shall perform the Services in a good and workmanlike manner and to a standard of performance that a competent professional and diligent independent provider of the services in the same circumstances would reasonably be expected to provide.
- (b) BWP Distribution will make all reasonable efforts to meet or exceed performance measures established by the Ontario Energy Board, Measurement Canada and by the IESO.

## SCHEDULE "C"

### Fees & Charges

	SERVICES	FEES	PERIOD OF FEE
1.	Base Management Services	\$138,652	Annual; (fee subject to 2% inflationary increase on January 1, 2022 and each year thereafter)
2.	Project Management Services	Cost	
3.	Materials Management Services	Sourcing at Cost Stock-keeping at Cost plus a mark-up of 11% on materials	
4.	Fleet Management	\$15,965	Annual; (fee subject to 2% inflationary increase on January 1, 2022 and each year thereafter)
5.	Board of Directors	\$7,494	Annual; (fee subject to 2% inflationary increase on January 1, 2022 and each year thereafter)

Terms & Conditions		
1	Prices	Subject to Applicable Taxes
2	Payment	Monthly invoice, Net 30 days
3	Cost	Shall mean BWP Distribution's fully allocated cost to provide the Services



# **ATTACHMENT 4 – 5**

## **SERVCO \_ DISTCO COST SHARING AGREEMENT**



## **COST SHARING AGREEMENT**

THIS AGREEMENT made as of the 17<sup>th</sup> day of November 2020,

BETWEEN:

**BLUEWATER POWER SERVICES CORPORATION**  
an Ontario corporation  
(“**BPSC**”)

and

**BLUEWATER POWER DISTRIBUTION CORPORATION,**  
an Ontario corporation  
(“**BWP Distribution**”)

WHEREAS:

- A. BWP Distribution carries on the business of distributing electricity within the City of Sarnia, the Town of Petrolia, the Village of Point Edward, the Village of Oil Springs, the Township of Brooke-Alvinston, and the Township of Warwick;
- B. BPSC carries on the business of water meter installation and maintenance, water billing, streetlight installation and maintenance, traffic light installation and maintenance and miscellaneous on demand line work, as well as civil work and ad hoc maintenance services; and
- C. BPSC requires, from time to time, the services of additional persons, and use of certain equipment; and
- D. BWP Distribution has agreed to make available to BPSC certain of its personnel, its equipment, and other resources on the terms as set forth in this Agreement.

**NOW THEREFORE** in consideration of the mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### **ARTICLE 1 INTERPRETATION**

#### **1.1 Definitions**

In this Agreement and in the schedules, the following terms and expressions will have the following meanings:

- (a) “Agreement” means this Agreement together with all Schedules attached to it, as they may be amended from time to time;
- (b) “Business Day” means any day other than a Saturday, Sunday, statutory or bank holiday in the Province of Ontario;

- (c) “Claim” has the meaning ascribed to it in Section 4.4;
- (d) “Default” has the meaning ascribed to it in Section 8.1;
- (e) “Defaulting Party” has the meaning ascribed to it in Section 8.1;
- (f) “Effective Date” means January 1, 2021;
- (g) “Event of Default” has the meaning ascribed to it in Section 8.1;
- (h) “Equipment” has the meaning ascribed to it in Section 3.2;
- (i) “Force Majeure Event” has the meaning ascribed to it in Section 11.1;
- (j) “Law” means any law, rule, regulation, code, order, writ, judgement, decree or other legal or regulatory determination by a court, regulatory agency or governmental authority of competent jurisdiction;
- (k) “Leased Premises” has the meaning ascribed to it in Section 3.3;
- (l) “Party” means a party to this Agreement and “Parties” refers to both BPSC and BWP Distribution collectively;
- (m) “Person” means an individual, corporation, partnership, joint venture, association, trust, pension fund, union, governmental agency, official, board, tribunal, ministry, commission or department;
- (n) “Personnel” has the meaning ascribed to it in Section 3.1; and
- (o) “Term” has the meaning ascribed to it in Section 2.1 of this Agreement.

## 1.2 Construction of Agreement

In this Agreement:

- (a) words denoting the singular include the plural and vice versa and words denoting any gender include all genders;
- (b) all usage of the word “including” or the phrase “e.g.,” in this Agreement shall mean “including, without limitation,” throughout this Agreement;
- (c) any reference to a statute shall mean the statute in force as at the date hereof, together with all regulations promulgated under it, as the same may be amended, re-enacted, consolidated or replaced, from time to time, and any successor statute, unless otherwise expressly provided;
- (d) any reference to a specific executive position or an internal division or department of a Party shall include any successor positions, divisions or departments having substantially the same responsibilities or performing substantially the same functions;

- (e) when calculating the period of time within which or following which any act is to be done or step taken, the date which is the reference day in calculating such period shall be excluded, and if the last day of such period is not a Business Day, the period shall end on the next Business Day;
- (f) all dollar amounts are expressed in Canadian dollars;
- (g) the division of this Agreement into separate Articles, Sections, subsections and Schedules and the insertion of headings is for convenience of reference only and shall not affect the construction or interpretation of this Agreement;
- (h) words or abbreviations which have well known or trade meanings are used in accordance with their recognized meanings;
- (i) the terms and conditions are the result of negotiations between the Parties and the Parties therefore agree that this Agreement shall not be construed in favour of or against any Party by reason of the extent to which any Party or its professional advisors participated in the preparation of this Agreement.

## **ARTICLE 2 TERM**

### **2.1 Term**

Unless terminated in accordance with Section 10.1, this Agreement shall come into force on the Effective Date and shall continue in full force and effect for a period of five (5) years. Thereafter, the term shall be automatically renewed for further successive periods of one (1) year each unless a Party gives notice in writing that the Agreement is not to be extended on a date which is at least ninety (90) days prior to the end of the initial five (5) year term, or the end of any renewal term, as the case may be.

## **ARTICLE 3 SERVICES, EQUIPMENT, LEASED PREMISES AND COVENANTS**

### **3.1 Personnel Services**

Subject to the terms, covenants and conditions contained in this Agreement, upon request, BWP Distribution will provide, or cause to be provided, to BPSC the services of certain personnel as listed by title under the heading "Services" in Schedule "A" employed by BWP Distribution ("Personnel").

### **3.2 Equipment**

Subject to the terms, covenants and conditions contained in this Agreement, BWP Distribution will also provide to BPSC certain equipment owned by BWP Distribution ("Equipment") for use by BPSC.

### 3.3 Use of Premises

BPSC has requested and BWP Distribution has granted non-exclusive use of a portion of building or facilities owned by BWP Distribution as set out in Schedule "A" for the annual rate set out therein for the purpose of staff and equipment relating to the business of BPSC.

### 3.4 BWP Distribution Covenants

- (a) BWP Distribution's Personnel shall, while providing services to BPSC, comply with all the rules and regulations of BPSC from time to time in force, which are brought to their notice or of which they should reasonably be aware.
- (b) BWP Distribution shall pay for and maintain for the benefit of BWP Distribution, appropriate insurance concerning the operations and liabilities of BWP Distribution relevant to this Agreement including, without limiting the generality of the foregoing, workplace safety and employment insurance in conformity with applicable statutory requirements in respect of any remuneration payable by BWP Distribution to any employees of BWP Distribution and public liability and property damage insurance.

### 3.5 BPSC Covenants

- (a) BPSC shall be responsible for obtaining all necessary licences and permits and for complying with all applicable federal, provincial and municipal laws, codes and regulations required to conduct its business and to use the Equipment and the Leased Premises.
- (b) BPSC shall not, without BWP Distribution's prior consent, make any alternations, additions or improvements to the Equipment and shall, while using the Equipment, use reasonable care and skill.
- (c) Notwithstanding any other provision of this Agreement, BPSC shall be fully responsible for any damage to or loss of any of the Equipment or any portion thereof while the Equipment is in its possession, reasonable wear and tear excepted.
- (d) BPSC shall not part with possession of, sell, assign, lease, sublease, rent or otherwise transfer any of the Equipment or any portion of the Leased Premises.
- (e) BPSC shall, while utilizing any portion of the Leased Premises, comply with all rules and regulations of BWP Distribution from time to time in force, which are brought to its notice or of which it should reasonably be aware, and shall be responsible for any damage or loss of the Leased Premises or any portion thereof.
- (f) BPSC shall use the Leased Premises solely for the purposes described in Section 3.3 above and shall not make or cause to be made any alterations, additions or improvements or erect or cause to be erected any partitions or install or cause to be installed any trade fixtures, signs, floor covering, interior or exterior lighting, plumbing fixtures, apparatus for air-conditioning, cooling, heating, illuminating, refrigerating, or ventilating in the Leased Premises, or make any changes to the

Leased Premises without first obtaining BWP Distribution's written approval thereto.

- (g) BPSC shall not do or permit to be done or omitted anything which could damage the Leased Premises or injure or impede the business of BWP Distribution conducted from the balance of Main Substation #1 and/or 855 Confederation Street, Sarnia, Ontario (collectively, the "Properties") or which shall or might result in any nuisance in or about the Properties, whether to BWP Distribution, any tenant of the Properties, or any other party, the whole as determined by BWP Distribution, acting reasonably. In any of the foregoing events, BPSC shall forthwith remedy the same and if such thing or condition shall not be so remedied, BWP Distribution may, after such notice, if any, as BWP Distribution may deem appropriate in the circumstances, correct such situation at the expense of BPSC and BPSC shall pay such expense to BWP Distribution.
- (h) BPSC shall keep the Leased Premises in a neat, clean and sanitary condition and shall not allow any refuse, garbage or other loose or objectionable or waste material to accumulate in or about such Leased Premises.
- (i) BPSC shall permit BWP Distribution access, upon request at any time during the term hereof, to the Leased Premises.

### 3.6 Regulatory Change

If any change of Law after the date of this Agreement renders this Agreement illegal or unenforceable, then the Parties shall be required to renegotiate in good faith for thirty (30) days with a goal of developing a substitute agreement with such amendments as are necessary to comply with such change of Law.

## **ARTICLE 4 MUTUAL COVENANTS**

### 4.1 Confidentiality of Confidential Information

No Personnel of a Party shall have access to any Confidential Information in the possession of the other Party, except for purposes related to the provision of Services and in compliance with the Affiliate Relationship Code for Electricity Distributors and Transmitters prescribed by the Ontario Energy Board.

### 4.2 Maintain Records

The Parties will maintain such records as may be necessary in connection with this Agreement and as are agreed upon by the Parties, acting reasonably.

### 4.3 Notification of Changes of Circumstances

BWP Distribution shall promptly give written notice to BPSC of any changes or prospective changes in circumstances that would materially affect the resources required for the Personnel, Equipment or Leased Premises provided to BPSC, including any anticipated material change in

the nature or level of business of BWP Distribution, the number of employees of BWP Distribution, the equipment of BWP Distribution or any efforts relating to the organization of or collective bargaining by employees of BWP Distribution, or any lease or service arrangements contemplated with any third parties.

#### 4.4 Notice of Claims, Etc.

BWP Distribution shall promptly give written notice to BPSC, and BPSC shall promptly give written notice to BWP Distribution, of all material claims, proceedings, notice of regulatory non-compliance from any regulatory authority, disputes (including labour disputes) or litigation (collectively, "Claims") which it reasonably believes could have a material adverse effect on the fulfillment of any of the material terms hereof by BWP Distribution or BPSC (whether or not any such Claim is covered by insurance) in respect of its own operations of which any of them is aware. Each Party shall provide the other Party with all information reasonably requested from time to time concerning the status of such Claims and any developments relating thereto.

### **ARTICLE 5 FEES AND COSTS**

#### 5.1 Fees

As consideration for the Personnel, Equipment and Leased Premises provided, BPSC shall pay to BWP Distribution the fees and charges set out in Schedule "A". BWP Distribution shall render a monthly invoice for all Personnel and Equipment provided to BPSC, as well as for use of the Leased Premises, during the preceding month, which invoice shall be due and payable within thirty (30) days of receipt.

#### 5.2 Out of Pocket and Third Party Expenses

BWP Distribution shall be reimbursed for all out-of-pocket expenses actually and properly incurred by BWP Distribution in connection with the provision of Personnel, Equipment and/or the Leased Premises.

#### 5.3 Taxes

BPSC shall pay to BWP Distribution any and all goods and services taxes, sales taxes, value-added taxes and/or any other taxes (excluding income taxes) properly eligible on the supply of Personnel, Equipment and/or Leased Premises provided under this Agreement and on any other amounts payable hereunder.

### **ARTICLE 6 REPRESENTATIONS AND WARRANTIES**

#### 6.1 Representations and Warranties of BWP Distribution

BWP Distribution represents and warrants to BPSC as follows and acknowledges that BPSC is relying on such representations and warranties:



- (a) BWP Distribution is a corporation duly incorporated and validly existing under the laws of the Province of Ontario and has the rights, powers and privileges to execute and deliver this Agreement and to perform its obligations hereunder;
- (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate action;
- (c) this Agreement constitutes a legal, valid and binding obligation of BWP Distribution, enforceable against BWP Distribution by BPSC in accordance with its terms except as may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction; and
- (d) BWP Distribution has the necessary resources and expertise to acquire or perform the Services.

## 6.2 Representations and Warranties of BPSC

BPSC represents and warrants to BWP Distribution as follows and acknowledges that BWP Distribution is relying on such representations and warranties:

- (a) BPSC is a corporation duly incorporated and validly existing under the laws of the Province of Ontario and has the rights, powers and privileges to execute and deliver this Agreement and to perform its obligations hereunder;
- (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate actions; and
- (c) this Agreement constitutes a legal, valid and binding obligation of BPSC, enforceable against BPSC by BWP Distribution in accordance with its terms except as may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction.

## **ARTICLE 7 INDEMNIFICATION**

### 7.1 Indemnification

- (a) BPSC shall indemnify, defend and hold harmless BWP Distribution, its officers, directors, and employees (each a “BWP Distribution Indemnitee”) from and against any and all claims, demands, suits, losses, liabilities, damages, obligations, payments, costs and expenses and accrued interest thereon (including the costs and expenses of, and accrued interest in respect of, any and all actions, suits, proceedings, assessments, judgements, awards, settlements and compromises relating thereto and reasonable lawyers’ fees and reasonable disbursements in connection therewith) (each an “Indemnifiable Loss”), asserted against or suffered by any BWP Distribution Indemnitee relating to, or in connection with, or resulting from or arising out of the provision of services of the Personnel provided hereunder, use of

the Equipment by BPSC and/or possession, occupation and/or use of the Leased Premises by BPSC.

- (b) BWP Distribution shall be deemed to hold the provisions of Section 7.1(a) that are for the benefit of BWP Distribution Indemnitees that are not party to this Agreement in trust for such persons as third party beneficiaries under this Agreement.

## 7.2 Limit of Liability

- (a) Should BWP Distribution be held liable by a court of law for any reason outside of the Indemnity under Section 7.1(a), BPSC agrees that BWP Distribution's liability to BPSC or any third party in connection with or arising under this Agreement, including without limitation, any liability arising from any act or omission of BWP Distribution in the provision of the Personnel, Equipment and/or the Leased Premises, whether arising in contract, tort, equity or otherwise, shall be limited to actions or liabilities resulting solely from the fraud or wilful misconduct of BWP Distribution in the provision of the Personnel, Equipment and/or the Leased Premises and shall not exceed an amount equal to the total amount paid by BPSC to BWP Distribution under this Agreement for Personnel, Equipment and Leased Premises over the twelve month period immediately preceding the date that the cause of action or claim giving rise to the liability first arose.
- (b) BWP Distribution shall not be liable for any damages caused by delay in delivering or furnishing any Personnel, Equipment or Leased Premises referred to in this Agreement.

## 7.3 Fines, Etc.

Notwithstanding anything else to the contrary in this Agreement, the Parties agree that BWP Distribution shall not be responsible for any sanctions, fines, penalties, or similar obligations imposed on BPSC, and BPSC agrees to indemnify and hold harmless BWP Distribution from any such sanctions fines, penalties or similar obligations.

# ARTICLE 8 DEFAULT

## 8.1 Events of Default

The occurrence of any one or more of the following events shall constitute a default (a "Default") by a Party (the "Defaulting Party") under this Agreement and shall constitute an "Event of Default" if such Default is not remedied prior to the expiry of any notice period and any cure period applicable to such Default:

- (a) if the Defaulting Party defaults in the payment of any amount due to the other Party under this Agreement and such default shall continue unremedied for sixty (60) days following notice in writing thereof to the Defaulting Party by the other Party;  
or



- (b) if the Defaulting Party fails in any material respect to perform or observe any of its other material obligations under this Agreement and such failure shall continue unremedied for a period of sixty (60) days following notice in writing thereof (giving particulars of the failure in reasonable detail) from the other Party to the Defaulting Party or such longer period as may be reasonably necessary to cure such failure (if such failure is capable of being cured), provided that the Defaulting Party:
  - (i) proceeds with all due diligence to cure or cause to be cured such failure; and
  - (ii) in proceeding so, can be reasonably expected to cure or cause to be cured such failure within a reasonable time frame acceptable to the other Party acting reasonably.

## **ARTICLE 9 REMEDIES**

### **9.1 Default Remedies**

- (a) Unless otherwise agreed to in writing, in the event of an Event of Default the non-defaulting Party may terminate this Agreement as it relates to the non-defaulting Party upon notice in writing and all amounts payable by the defaulting Party hereunder shall become due and payable forthwith.
- (b) The remedies in this section are expressly in lieu of any or all of the remedies, which may be available to each of BWP Distribution and BPSC in respect of or under this Agreement resulting from the furnishing, the failure to furnish or the quality of any Services.

## **ARTICLE 10 TERMINATION**

### **10.1 Termination**

This Agreement shall terminate:

- (a) in accordance with the provisions of Section 9.1; or
- (b) upon issuance of a notice of non-renewal in accordance with Section 2.1.

### **10.2 Notice of Termination**

Any termination hereof pursuant to Section 10.1 shall be by written notice of the terminating Party.

## **ARTICLE 11 GENERAL**

### **11.1 Force Majeure**

No Party shall be liable for a failure or delay in the performance of its obligations pursuant to this Agreement:

- (a) provided that such failure or delay could not have been prevented by reasonable precautions;
- (b) provided that such failure or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, work around plans or other means; and
- (c) if and to the extent such failure or delay is caused, directly or indirectly, by fire, flood, earthquake, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions, strikes, lock outs or labour disruptions or revolutions in Canada, or any other similar causes beyond the reasonable control of such Party, (each a "Force Majeure Event").

Upon the occurrence of a Force Majeure Event, the non-performing Party shall be excused from any further performance of those of its obligations pursuant to this Agreement affected by the Force Majeure Event only for so long as:

- (i) such Force Majeure Event continues; and
- (ii) such Party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

The Party delayed by a Force Majeure Event shall:

- (a) immediately notify the other Parties by telephone (to be confirmed in writing within five (5) days of the inception of such delay) of the occurrence of a Force Majeure Event; and
- (b) describe in reasonable detail the circumstances causing the Force Majeure Event.

### **11.2 Dispute Resolution**

If any dispute arising in relation to an Event of Default under Section 8.1(b) or the implementation of the cure for the Default under Section 8.1(b) cannot be resolved by negotiation between the Parties, then the dispute shall be referred to one arbitrator agreeable to and appointed by both Parties. If the Parties cannot agree on one arbitrator, the matter in dispute shall be referred to a panel of three arbitrators, one of which shall be appointed by BWP Distribution, one of which shall be appointed by BPSC and the third shall be appointed by the two arbitrators selected by BWP Distribution and BPSC. The arbitrator or arbitrators shall receive such oral and written evidence as may be required to investigate the matter in dispute and to render a decision and shall be guided by this Agreement and the intent of this Agreement. The decision of the arbitrator or arbitrators shall

be provided in writing to the Parties no later than thirty (30) days after the sole arbitrator or the third arbitrator has been appointed. The decision of the arbitrator or arbitrators shall be final and binding on the Parties.

### 11.3 Assignment

Neither Party shall, without the written consent of the other Party, which may be arbitrarily withheld in the sole discretion of a Party, assign or transfer its interest in this Agreement. This Agreement shall be binding on the Parties and their respective successors and permitted assigns. Any purported assignment in contravention of this Agreement shall be void.

### 11.4 Notices

All notices, request, approvals, consents and other communications required or permitted under this Agreement shall be in writing and addressed as follows:

(a) if to BPSC,

P.O. Box 2140  
855 Confederation Street  
Sarnia, ON N7T 7L6

Attn: Liz Kelly  
Fax: 519-332-3878  
Email: [lkelly@bluewaterpower.com](mailto:lkelly@bluewaterpower.com)

(b) if to BWP Distribution,

P.O. Box 2140  
855 Confederation Street  
Sarnia, ON N7T 7L6

Attn: Janice McMichael-Dennis  
Fax: 519-344-6094  
Email: [jmcmichael-dennis@bluewaterpower.com](mailto:jmcmichael-dennis@bluewaterpower.com)

and shall be sent by fax and the Party sending such notice shall telephone to confirm receipt. A copy of any such notice shall also be sent on the date such notice is transmitted by fax, by email, by registered express mail or courier with the capacity to verify receipt of delivery. Either Party may change its address or fax number for notification purposes by giving the other Party notice of the new address or fax number and the date upon which it will become effective in accordance with the terms of this Agreement. A notice shall be deemed to have been received as of the next Business Day following its transmission by fax.

### 11.5 Severability

If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable or contrary to law, then the remaining provisions of this Agreement, or the application of such provisions to persons or circumstances other than those as to which it is invalid or unenforceable

shall not be affected thereby, and each such provision of this Agreement shall be valid and enforceable to the extent granted by law. If any clause is deemed unenforceable or contrary to law, the parties shall alter the said clause and this agreement to produce enforceability or compliance with law such that the intent of the original clause is maintained and such change or alteration may be established through the dispute resolution clause in this agreement.

#### 11.6 Waiver

No delay or omission by a Party to exercise any right or power it has under this Agreement or to object to the failure of any covenant of the other Party to be performed in a timely and complete manner, shall impair any such right or power or be construed as a waiver of any succeeding breach or any other covenant. All waivers must be in writing and signed by the Party waiving its rights.

#### 11.7 Entire Agreement

This Agreement constitutes the entire Agreement between the Parties with respect to the subject matter hereof, and there are no other representations, understandings or agreements, either oral or written, between the Parties other than as set out in this Agreement.

#### 11.8 Amendments

No amendment to, or change, waiver or discharge of, any provision of this Agreement shall be valid unless in writing and signed by authorized representatives of each Party.

#### 11.9 Governing Law

This Agreement shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein. The Parties hereby agree that the courts of the Province of Ontario shall have exclusive jurisdiction over disputes under this Agreement, and the Parties agree that jurisdiction and venue in such courts is appropriate and irrevocably attach to the jurisdiction of such courts.

#### 11.10 Survival

The terms of Article 7, Article 9 and Article 11 shall survive the expiration of this Agreement or termination of this Agreement for any reason.

#### 11.11 Third Party Beneficiaries

Each Party intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any person or entity other than the Parties.

#### 11.12 Covenant of Further Assurances

The Parties agree that, subsequent to the execution and delivery of this Agreement and without any additional consideration, the Parties shall execute and deliver or cause to be executed and delivered any further legal instruments and perform any acts, which are or may become necessary to effectuate the purposes of this Agreement and to complete the transactions contemplated under it.

11.13 Independent Contractors

The Parties are independent contractors and BWP Distribution shall not be considered to be an agent of BPSC. It is further understood and agreed that this Agreement does not constitute a partnership or joint venture between the Parties.

IN WITNESS WHEREOF, this Agreement has been executed by the duly authorized signatories of the parties hereto as of the date first written above.

**BLUEWATER POWER SERVICES  
CORPORATION**

Per:



Name: Mark Delaurier  
Title: Vice President

I/we have authority to bind the corporation

**BLUEWATER POWER  
DISTRIBUTION CORPORATION**

Per:



Name: Janice McMichael-Dennis  
Title: CEO

I/we have authority to bind the corporation

## SCHEDULE "A"

### Fees & Charges

	SERVICES	FEES	PERIOD OF FEE
1.	<b>Linemen</b>	Cost	Monthly
2.	<b>Other Personnel</b>	Cost	Monthly
3.	<b>Water Billing related cost</b>	\$235,718	Annually
4	<b>Equipment use</b>	Cost	Monthly
5.	<b>MS#1 office space and storage</b>	\$12,622	Annually
6.	<b>855 Confederation St. office space</b>	\$7,389	Annually
*	<b>Fee subject to 2% inflationary increase on January 1, 2022 and each year thereafter</b>		

Terms & Conditions		
1	Prices	Subject to Applicable Taxes
2	Payment	Monthly invoice, Net 30 days
3	Cost	BWP Distribution's fully allocated cost



# **ATTACHMENT 4 – 6**

## **BRNI \_ DISTCO MANAGEMENT SERVICES AGREEMENT**

## **MANAGEMENT SERVICES AGREEMENT**

THIS MANAGEMENT SERVICES AGREEMENT made as of the 17<sup>th</sup> day of November, 2020,

BETWEEN:

**BLUEWATER REGIONAL NETWORKS INC.,**  
an Ontario corporation  
(**"BRNI"**)

and

**BLUEWATER POWER DISTRIBUTION CORPORATION,**  
an Ontario corporation  
(**"BWP Distribution"**)

WHEREAS:

A. BWP Distribution carries on the business of distributing electricity within the City of Sarnia, the Town of Petrolia, the Village of Point Edward, the Village of Oil Springs, The Municipality of Brooke-Alvinston, and the Township of Warwick;

B. BRNI carries on the business of telecommunication services, and

C. BWP Distribution agrees to provide certain services to BRNI on the terms as set forth in this Agreement.

**NOW THEREFORE** in consideration of the mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### **ARTICLE 1 INTERPRETATION**

#### **1.1 Definitions**

In this Agreement and in the Schedules, the following terms and expressions will have the following meanings:

- (a) "Agreement" means this Services Agreement together with all Schedules attached to it, as they may be amended from time to time;
- (b) "Business Day" means any day other than a Saturday, Sunday, statutory or bank holiday in the Province of Ontario;
- (c) "Claim" has the meaning ascribed to it in Section 4.4;
- (d) "Confidential Information" means information BWP Distribution has obtained relating to a specific consumer, retailer and/or generator in the process of providing current or prospective distribution service;



- (e) “Default” has the meaning ascribed to it in Section 8.1;
- (f) “Defaulting Party” has the meaning ascribed to it in Section 8.1;
- (g) “Effective Date” means January 1, 2021;
- (h) “Event of Default” has the meaning ascribed to it in Section 8.1;
- (i) “Force Majeure Event” has the meaning ascribed to it in Section 11.1;
- (j) “IESO” means the Independent Electricity System Operator;
- (k) “Law” means any law, rule, regulation, code, order, writ, judgement, decree or other legal or regulatory determination by a court, regulatory agency, including the IESO, or governmental authority of competent jurisdiction;
- (l) “Party” means a party to this Agreement and “Parties” refers to both BRNI and BWP Distribution collectively;
- (m) “Person” means an individual, corporation, partnership, joint venture, association, trust, pension fund, union, governmental agency, official, board, tribunal, ministry, commission or department;
- (n) “Personnel” means employees, agents, professional advisors, contractors and subcontractors;
- (o) “Services” has the meaning ascribed to it in Section 3.1 of this Agreement;
- (p) “Service Standards” has the meaning ascribed to it in Section 3.2 of this Agreement;
- (q) “Term” has the meaning ascribed to it in Section 2.1 of this Agreement; and
- (r) “Third Party Expenses” means all fees, costs and charges paid to third parties by BWP Distribution on behalf of BRNI in connection with providing the Services or incurred by BWP Distribution’s employees while providing Services under this Agreement.

## 1.2 Construction of Agreement

In this Agreement:

- (a) words denoting the singular include the plural and vice versa and words denoting any gender include all genders;
- (b) all usage of the word “including” or the phrase “e.g.,” in this Agreement shall mean “including, without limitation,” throughout this Agreement;
- (c) any reference to a statute shall mean the statute in force as at the date hereof, together with all regulations promulgated under it, as the same may be amended,

re-enacted, consolidated or replaced, from time to time, and any successor statute, unless otherwise expressly provided;

- (d) any reference to a specific executive position or an internal division or department of a Party shall include any successor positions, divisions or departments having substantially the same responsibilities or performing substantially the same functions;
- (e) when calculating the period of time within which or following which any act is to be done or step taken, the date which is the reference day in calculating such period shall be excluded, and if the last day of such period is not a Business Day, the period shall end on the next Business Day;
- (f) all dollar amounts are expressed in Canadian dollars;
- (g) the division of this Agreement into separate Articles, Sections, subsections and Schedules and the insertion of headings is for convenience of reference only and shall not affect the construction or interpretation of this Agreement;
- (h) words or abbreviations which have well known or trade meanings are used in accordance with their recognized meanings;
- (i) the terms and conditions are the result of negotiations between the Parties and the Parties therefore agree that this Agreement shall not be construed in favour of or against any Party by reason of the extent to which any Party or its professional advisors participated in the preparation of this Agreement.

## **ARTICLE 2 TERM**

### **2.1 Term**

Unless terminated in accordance with Section 10.1, this Agreement shall come into force on the Effective Date and shall continue in full force and effect for a period of five (5) years. Thereafter, the term shall be automatically renewed for further successive periods of one (1) year each unless a Party gives notice in writing that the Agreement is not to be extended on a date which is at least ninety (90) days prior to the end of the initial five (5) year term, or the end of any renewal term, as the case may be.

## **ARTICLE 3 BWP DISTRIBUTION SERVICES AND COVENANTS**

### **3.1 Services**

Subject to the terms, covenants and conditions contained in this Agreement, BWP Distribution will provide, or cause to be provided, to BRNI the services set out in Schedule "A" (collectively the "Services"), as may be required by BRNI.

### 3.2 Service Standards

BWP Distribution will provide the Services to BRNI, or cause them to be provided, to the standards set out in Schedule "B" (collectively the "Service Standards").

### 3.3 Changes

BRNI and BWP Distribution may, from time to time, during the term of this Agreement agree to modifications to a Service or a Service Standard by negotiating appropriate changes to the description of the Service or the Service Standard, as applicable, and the necessary associated amendments to the consideration for such Service or Service Standard. As evidence of such modifications, the Parties shall initial and attach amended Schedule(s) in this Agreement.

### 3.4 General BWP Distribution Covenants

- (a) BWP Distribution shall, when requested, provide BRNI with adequate evidence of its compliance with this Section 3.4.
- (b) BWP Distribution shall, while on site at any premises used by BRNI, comply with all the rules and regulations of BRNI from time to time in force, which are brought to its notice or of which it should reasonably be aware.
- (c) BWP Distribution shall pay for and maintain for the benefit of BWP Distribution and BRNI appropriate insurance concerning the operations and liabilities of BWP Distribution relevant to this Agreement including, without limiting the generality of the foregoing, workplace safety and employment insurance in conformity with applicable statutory requirements in respect of any remuneration payable by BWP Distribution to any employees of BWP Distribution and public liability and property damage insurance.

### 3.5 BRNI Covenants

- (a) BRNI shall be responsible for obtaining all necessary licences and permits and for complying with all applicable federal, provincial and municipal laws, codes and regulations required to conduct its business and to use the property of BWP Distribution.
- (b) BRNI shall pay for and maintain for the benefit of BRNI and BWP Distribution appropriate insurance concerning the operations and liabilities of BRNI relevant to this Agreement including, without limiting the generality of the foregoing, workplace safety and employment insurance in conformity with applicable statutory requirements in respect of any remuneration payable by BRNI to any employees of BRNI and public liability and property damage insurance.
- (c) BRNI shall not, without BWP Distribution's prior consent, make any alternations, additions or improvements to the property of BWP Distribution and shall, while using the property of BWP Distribution, use reasonable care and skill.

### 3.6 Regulatory Change

If any change of Law after the date of this Agreement renders this Agreement illegal or unenforceable, then the Parties shall be required to renegotiate in good faith for thirty (30) days with a goal of developing a substitute agreement with such amendments as are necessary to comply with such change of Law.

## **ARTICLE 4 MUTUAL COVENANTS**

### 4.1 Confidentiality of Confidential Information

No Personnel of a Party shall have access to any Confidential Information in the possession of the other Party, except for purposes related to the provision of Services and in compliance with the Affiliate Relationship Code for Electricity Distributors and Transmitters prescribed by the Ontario Energy Board.

### 4.2 Maintain Records

The Parties will maintain such records as may be necessary in connection with this Agreement and as are agreed upon by the Parties, acting reasonably.

### 4.3 Notification of Changes of Circumstances

BWP Distribution shall promptly give written notice to BRNI of any changes or prospective changes in circumstances that would materially affect the resources required for the Services provided to BRNI, including any anticipated material change in the nature or level of business of BWP Distribution, the number of employees of BWP Distribution, or any efforts relating to the organization of or collective bargaining by employees of BWP Distribution, or any lease or service arrangements contemplated with any third party.

### 4.4 Notice of Claims, Etc.

BWP Distribution shall promptly give written notice to BRNI, and BRNI shall promptly give written notice to BWP Distribution, of all material claims, proceedings, notice of regulatory non-compliance from any regulatory authority, disputes (including labour disputes) or litigation (collectively, "Claims") which it reasonably believes could have a material adverse effect on the fulfillment of any of the material terms hereof by BWP Distribution or BRNI (whether or not any such Claim is covered by insurance) in respect of its own operations of which either of them is aware. Each Party shall provide the other Party with all information reasonably requested from time to time concerning the status of such Claims and any developments relating thereto.

## **ARTICLE 5 FEES AND COSTS**

### **5.1    Fees**

As consideration for the Services provided, BRNI shall pay to BWP Distribution the fees and charges set out in Schedule "C". BWP Distribution shall render a quarterly invoice for all Services provided to BRNI during the preceding month, which invoice shall be due and payable within thirty (30) days of receipt.

### **5.2    Out of Pocket and Third Party Expenses**

BWP Distribution shall be reimbursed for all out-of-pocket expenses and Third Party Expenses actually and properly incurred by BWP Distribution in connection with the performance of Services hereunder.

### **5.3    Taxes**

BRNI shall pay to BWP Distribution any and all harmonized sales taxes, sales taxes, value-added taxes and/or any other taxes (excluding income taxes) properly eligible on the supply of Services provided under this Agreement and on any other amounts payable hereunder.

## **ARTICLE 6 REPRESENTATIONS AND WARRANTIES**

### **6.1    Representations and Warranties of BWP Distribution**

BWP Distribution represents and warrants to BRNI as follows and acknowledges that BRNI is relying on such representations and warranties:

- (a) BWP Distribution is a corporation duly incorporated and validly existing under the laws of the Province of Ontario and has the rights, powers and privileges to execute and deliver this Agreement and to perform its obligations hereunder;
- (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate action;
- (c) this Agreement constitutes a legal, valid and binding obligation of BWP Distribution, enforceable against BWP Distribution by BRNI in accordance with its terms except as may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction; and
- (d) BWP Distribution has the necessary resources and expertise to acquire or perform the Services.

### **6.2    Representations and Warranties of BRNI**

BRNI represents and warrants to BWP Distribution as follows and acknowledges that BWP Distribution is relying on such representations and warranties:

- (a) BRNI is a corporation duly incorporated and validly existing under the laws of the Province of Ontario and has the rights, powers and privileges to execute and deliver this Agreement and to perform its obligations hereunder;
- (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate actions; and
- (c) this Agreement constitutes a legal, valid and binding obligation of BRNI, enforceable against BRNI by BWP Distribution in accordance with its terms except as may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction.

### 6.3 Warranty

The Services provided by BWP Distribution will be performed in a professional and workmanlike manner in accordance with the Service Standards, however, the Services are provided without warranty.

## **ARTICLE 7 INDEMNIFICATION**

### 7.1 Indemnification

- (a) BRNI shall indemnify, defend and hold harmless BWP Distribution, its officers, directors, and employees (each a "BWP Distribution Indemnitee") from and against any and all claims, demands, suits, losses, liabilities, damages, obligations, payments, costs and expenses and accrued interest thereon (including the costs and expenses of, and accrued interest in respect of, any and all actions, suits, proceedings, assessments, judgements, awards, settlements and compromises relating thereto and reasonable lawyers' fees and reasonable disbursements in connection therewith) (each an "Indemnifiable Loss"), asserted against or suffered by any BWP Distribution Indemnities relating to, or in connection with, or resulting from or arising out of the provision of the Services by BWP Distribution.
- (b) BWP Distribution shall be deemed to hold the provisions of Section 7.1(a) that are for the benefit of BWP Distribution Indemnities that are not party to this Agreement in trust for such persons as third party beneficiaries under this Agreement.

### 7.2 Limit of Liability

- (a) Should BWP Distribution be held liable by a court of law for any reason, BRNI agrees that BWP Distribution's liability to BRNI or any third party in connection with or arising under this Agreement, including without limitation, any liability arising from any act or omission of BWP Distribution in the provision of the Services, whether arising in contract, tort, equity or otherwise, shall be limited to, and BRNI shall indemnify BWP Distribution from, actions or liabilities resulting solely from the fraud or wilful misconduct of BWP Distribution in the provision of the Services and shall not exceed an amount equal to the total amount paid by BRNI

to BWP Distribution under this Agreement for Services over the twelve month period immediately preceding the date that the cause of action or claim giving rise to the liability first arose.

- (b) BWP Distribution shall not be liable for any damages caused by delay in delivering or furnishing any Services referred to in this Agreement.

### 7.3 Fines, Etc.

Notwithstanding anything else to the contrary in this Agreement, the Parties agree that BWP Distribution shall not be responsible for any sanctions, fines, penalties, or similar obligations imposed on BRNI, and BRNI agrees to indemnify and hold harmless BWP Distribution from any such sanctions fines, penalties or similar obligations.

## **ARTICLE 8 DEFAULT**

### 8.1 Events of Default

The occurrence of any one or more of the following events shall constitute a default (a "Default") by a Party (the "Defaulting Party") under this Agreement and shall constitute an "Event of Default" if such Default is not remedied prior to the expiry of any notice period and any cure period applicable to such Default:

- (a) if the Defaulting Party defaults in the payment of any amount due to the other Party under this Agreement and such default shall continue unremedied for sixty (60) days following notice in writing thereof to the Defaulting Party by the other Party;  
or
- (b) if the Defaulting Party fails in any material respect to perform or observe any of its other material obligations under this Agreement and such failure shall continue unremedied for a period of sixty (60) days following notice in writing thereof (giving particulars of the failure in reasonable detail) from the other Party to the Defaulting Party or such longer period as may be reasonably necessary to cure such failure (if such failure is capable of being cured), provided that the Defaulting Party:
  - (i) proceeds with all due diligence to cure or cause to be cured such failure;  
and
  - (ii) in proceeding so, can be reasonably expected to cure or cause to be cured such failure within a reasonable time frame acceptable to the other Party acting reasonably.

## **ARTICLE 9 REMEDIES**

### **9.1 Default Remedies**

- (a) Unless otherwise agreed to in writing, in the event of an Event of Default the non-defaulting Party may terminate this Agreement as it relates to the non-defaulting Party upon notice in writing and all amounts payable by the defaulting Party hereunder shall become due and payable forthwith.
- (b) The remedies in this section are expressly in lieu of any or all of the remedies which may be available to each of BWP Distribution and BRNI in respect of or under this Agreement resulting from the furnishing, the failure to furnish or the quality of any Services.

## **ARTICLE 10 TERMINATION**

### **10.1 Termination**

This Agreement shall terminate:

- (a) in accordance with the provisions of Section 9.1; or
- (b) upon issuance of a notice of non-renewal in accordance with Section 2.1.

### **10.2 Notice of Termination**

Any termination hereof pursuant to Section 10.1 shall be by written notice of the terminating Party.

## **ARTICLE 11 GENERAL**

### **11.1 Force Majeure**

No Party shall be liable for a failure or delay in the performance of its obligations pursuant to this Agreement:

- (a) provided that such failure or delay could not have been prevented by reasonable precautions;
- (b) provided that such failure or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, work around plans or other means; and
- (c) if and to the extent such failure or delay is caused, directly or indirectly, by fire, flood, earthquake, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions, strikes, lock outs or labour disruptions or revolutions in Canada, or any other similar causes beyond the reasonable control of such Party, (each a "Force Majeure Event").



Upon the occurrence of a Force Majeure Event, the non-performing Party shall be excused from any further performance of those of its obligations pursuant to this Agreement affected by the Force Majeure Event only for so long as:

- (i) such Force Majeure Event continues; and
- (ii) such Party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

The Party delayed by a Force Majeure Event shall:

- (a) immediately notify the other Parties by telephone (to be confirmed in writing within five (5) days of the inception of such delay) of the occurrence of a Force Majeure Event; and
- (b) describe in reasonable detail the circumstances causing the Force Majeure Event.

#### 11.2 Dispute Resolution

If any dispute arising in relation to an Event of Default under Section 8.1(b) or the implementation of the cure for the Default under Section 8.1(b) cannot be resolved by negotiation between the Parties, then the dispute shall be referred to one arbitrator agreeable to and appointed by both Parties. If the Parties cannot agree on one arbitrator, the matter in dispute shall be referred to a panel of three arbitrators, one of which shall be appointed by BWP Distribution, one of which shall be appointed by BRNI and the third shall be appointed by the two arbitrators selected by BWP Distribution and BRNI. The arbitrator or arbitrators shall receive such oral and written evidence as may be required to investigate the matter in dispute and to render a decision and shall be guided by this Agreement and the intent of this Agreement. The decision of the arbitrator or arbitrators shall be provided in writing to the Parties no later than thirty (30) days after the sole arbitrator or the third arbitrator has been appointed. The decision of the arbitrator or arbitrators shall be final and binding on the Parties.

#### 11.3 Assignment

Neither Party shall, without the written consent of the other Party, which may be arbitrarily withheld in the sole discretion of a Party, assign or transfer its interest in this Agreement. This Agreement shall be binding on the Parties and their respective successors and permitted assigns. Any purported assignment in contravention of this Agreement shall be void.

#### 11.4 Notices

All notices, request, approvals, consents and other communications required or permitted under this Agreement shall be in writing and addressed as follows:

- (a) if to BRNI,

P.O. Box 2140  
855 Confederation Street  
Sarnia, ON N7T 7L6

Attn: Chris Gould  
Fax: 519-344-6094  
Email: [chris@bregional.com](mailto:chris@bregional.com)

(b) if to BWP Distribution,

P.O. Box 2140  
855 Confederation Street  
Sarnia, ON N7T 7L6

Attn: Janice McMichael-Dennis  
Fax: 519-344-6094  
Email: [jmmichael-dennis@bluewaterpower.com](mailto:jmmichael-dennis@bluewaterpower.com)

and shall be sent by fax and the Party sending such notice shall telephone to confirm receipt. A copy of any such notice shall also be sent on the date such notice is transmitted by fax, by email, by registered express mail or courier with the capacity to verify receipt of delivery. Either Party may change its address or fax number for notification purposes by giving the other Party notice of the new address or fax number and the date upon which it will become effective in accordance with the terms of this Agreement. A notice shall be deemed to have been received as of the next Business Day following its transmission by fax.

#### 11.5 Severability

If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable or contrary to law, then the remaining provisions of this Agreement, or the application of such provisions to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each such provision of this Agreement shall be valid and enforceable to the extent granted by law. If any clause is deemed unenforceable or contrary to law, the parties shall alter the said clause and this agreement to produce enforceability or compliance with law such that the intent of the original clause is maintained and such change or alteration may be established through the dispute resolution clause in this agreement.

#### 11.6 Waiver

No delay or omission by a Party to exercise any right or power it has under this Agreement or to object to the failure of any covenant of the other Party to be performed in a timely and complete manner, shall impair any such right or power or be construed as a waiver of any succeeding breach or any other covenant. All waivers must be in writing and signed by the Party waiving its rights.

#### 11.7 Entire Agreement

This Agreement supersedes any prior agreement between BWP Distribution and BRNI in relation to the Services provided for in this Agreement, and constitutes the entire Agreement between the Parties with respect to the Services, and there are no other representations, understandings or agreements, either oral or written, between the Parties other than as set out in this Agreement.

#### 11.8 Amendments

No amendment to, or change, waiver or discharge of, any provision of this Agreement shall be valid unless in writing and signed by authorized representatives of each Party.

#### 11.9 Governing Law

This Agreement shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein. The Parties hereby agree that the courts of the Province of Ontario shall have exclusive jurisdiction over disputes under this Agreement, and the Parties agree that jurisdiction and venue in such courts is appropriate and irrevocably attach to the jurisdiction of such courts.

#### 11.10 Survival

The terms of Article 7, Article 9 and Article 11 shall survive the expiration of this Agreement or termination of this Agreement for any reason.

#### 11.11 Third Party Beneficiaries

Each Party intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any person or entity other than the Parties.

#### 11.12 Covenant of Further Assurances

The Parties agree that, subsequent to the execution and delivery of this Agreement and without any additional consideration, the Parties shall execute and deliver or cause to be executed and delivered any further legal instruments and perform any acts which are or may become necessary to effectuate the purposes of this Agreement and to complete the transactions contemplated under it.

#### 11.13 Independent Contractors

The Parties are independent contractors and neither BWP Distribution nor any of its employees shall be considered to be an agent or employee of BRNI. Each of the Parties shall be solely responsible for each of its own employees. It is further understood and agreed that this Agreement does not constitute a partnership, joint venture or employment agreement between the Parties.

IN WITNESS WHEREOF this Agreement has been executed by the duly authorized signatories of the parties hereto as of the date first written above.

**BLUEWATER REGIONAL NETWORK INC.**

Per: 

Name: Chris Gould

Title: C.O.O.

I have authority to bind the corporation

**BLUEWATER POWER DISTRIBUTION CORPORATION**

Per: 

Name: Janice McMichael-Dennis

Title: President and C.E.O.

I have authority to bind the corporation

## SCHEDULE "A"

### Description of Services

1. **"Base Management Services"** will include those functions relating to the day-to-day activities normally associated with the provision of management services, but does not include administrative-type or supervisory functions which is carried out by BRNI utilizing its own staff. The types of services included in Base Management Services shall include:
  - (a) Treasury services will include cash flow management, banking, accounts payable services, account receivables, taxation (PILs), GST and PST remittances and corporate VISA card.
  - (b) Controllership services will include financial systems, financial processes, policies and procedures, financial controls and compliance, financial reporting and analysis, annual budgets, financial operations, billing, collecting, capitalization and depreciation, WIP and inventory, labour charging, allocations and burdens, managing external audit, risk and contract management, insurance programs, liability, D&O, fleet, facilities, OEB reporting, incentive plan reporting, billing system quality control.
  - (c) Audit services include audit reports to Audit Committee and Board of Directors.
  - (d) Human resources services will include programming and consulting including recruitment, compensation and benefits, employee relations, labour relations.
  - (e) IT services will include personal computer systems support and communications support.
  - (f) Safety services will include safety program development, monitoring, reporting, implementation and support.
  - (g) General Management services relate to providing corporate direction, monitoring of progress and reporting to the Board of Directors.
  - (h) New support services will include such new services as may be agreed upon by the parties from time to time with a price to be negotiated at that time.
2. **"Project Management Services"** will include any service similar in nature to the services provided under the definition of Base Management Services, where the services rendered are beyond day-to-day activities. This will include an initiative to review a particular business unit or an assessment of a new business opportunity. Generally, time is docketed to Project Management Services by each manager involved in any initiative anticipated to require a total of eight (8) hours or more of management time.

3. **“Materials Management Services”**, if any, will include sourcing of material and stock-keeping services.
  - (a) Sourcing of materials will include sourcing and pricing of special order, as well as routine items that are to be purchased directly by BRNI.
  - (b) Stock-keeping services will include the provision of stock items not separately stocked by BRNI provided in accordance with a written request from BRNI on an as-needed basis.
4. **“Fleet Management”**, if any, will include scheduling and maintenance, as well as tracking mileage, maintenance costs and assisting in decisions regarding replacement of vehicles. The services also include reading vehicles for service and carrying out of routine maintenance.
5. **“Board of Directors”**, will include an allocation of costs relating to the Board of Directors with shared responsibilities, including annual fees, meeting fees, travel, as well as Directors and Officers Liability insurance.

## **SCHEDULE “B”**

### **Description of Service Standards**

#### **Service Standards**

- (a) BWP Distribution will adhere to industry standards, based on standards set by the WSIB, Electric Utility Safety Association, and Occupational Health & Safety Standards as applicable and in any case shall perform the Services in a good and workmanlike manner and to a standard of performance that a competent professional and diligent independent provider of the services in the same circumstances would reasonably be expected to provide.
- (b) BWP Distribution will make all reasonable efforts to meet or exceed performance measures established by the Ontario Energy Board, Measurement Canada and by the IESO.

## SCHEDULE "C"

### Fees & Charges

	SERVICES	FEES	PERIOD OF FEE
1.	Base Management Services	\$36,986	Annual; (fee subject to 2% inflationary increase on January 1, 2022 and each year thereafter)
2.	Project Management Services	Cost	
3.	Materials Management Services	Sourcing at Cost Stock-keeping at Cost plus a mark-up of 11% on materials	
4.	Board of Directors	\$1,656	Annual; (fee subject to 2% inflationary increase on January 1, 2022 and each year thereafter)

Terms & Conditions		
1	Prices	Subject to Applicable Taxes
2	Payment	Monthly invoice, Net 30 days
3	Cost	Shall mean BWP Distribution's fully allocated cost to provide the Services





# **ATTACHMENT 4 – 7**

## **BRNI \_ DISTCO COST SHARING AGREEMENT**

## **COST SHARING AGREEMENT**

THIS AGREEMENT made as of the 17<sup>th</sup> day of November, 2020,

BETWEEN:

**BLUEWATER REGIONAL NETWORKS INC.**  
an Ontario corporation  
("BRNI")

And

**BLUEWATER POWER DISTRIBUTION CORPORATION**  
an Ontario corporation  
("BWP Distribution")

WHEREAS:

- A. BWP Distribution carries on the business of distributing electricity within the City of Sarnia, the Town of Petrolia, the Village of Point Edward, the Village of Oil Springs, the Township of Brooke-Alvinston, and the Township of Warwick;
- B. BRNI carries on the business of telecommunication services;
- C. BRNI requires, from time to time, the services of additional persons, and use of certain equipment; and
- D. BWP Distribution has agreed to make available to BRNI certain of its personnel and its equipment and other resources on the terms as set forth in this Agreement.

**NOW THEREFORE** in consideration of the mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### **ARTICLE 1 INTERPRETATION**

#### **1.1 Definitions**

In this Agreement and in the schedules, the following terms and expressions will have the following meanings:

- (a) "Agreement" means this Agreement together with all Schedules attached to it, as they may be amended from time to time;
- (b) "Business Day" means any day other than a Saturday, Sunday, statutory or bank holiday in the Province of Ontario;
- (c) "Claim" has the meaning ascribed to it in Section 4.4;

- (d) “Default” has the meaning ascribed to it in Section 8.1;
- (e) “Defaulting Party” has the meaning ascribed to it in Section 8.1;
- (f) “Effective Date” means January 1, 2021;
- (g) “Event of Default” has the meaning ascribed to it in Section 8.1;
- (h) “Equipment” has the meaning ascribed to it in Section 3.2;
- (i) “Force Majeure Event” has the meaning ascribed to it in Section 11.1;
- (j) “Law” means any law, rule, regulation, code, order, writ, judgement, decree or other legal or regulatory determination by a court, regulatory agency or governmental authority of competent jurisdiction;
- (k) “Leased Premises” has the meaning ascribed to it in Section 3.3;
- (l) “Party” means a party to this Agreement and “Parties” refers to both BRNI and BWP Distribution collectively;
- (m) “Person” means an individual, corporation, partnership, joint venture, association, trust, pension fund, union, governmental agency, official, board, tribunal, ministry, commission or department;
- (n) “Personnel” has the meaning ascribed to it in Section 3.1; and
- (o) “Term” has the meaning ascribed to it in Section 2.1 of this Agreement.

## 1.2 Construction of Agreement

In this Agreement:

- (a) words denoting the singular include the plural and vice versa and words denoting any gender include all genders;
- (b) all usage of the word “including” or the phrase “e.g.,” in this Agreement shall mean “including, without limitation,” throughout this Agreement;
- (c) any reference to a statute shall mean the statute in force as at the date hereof, together with all regulations promulgated under it, as the same may be amended, re-enacted, consolidated or replaced, from time to time, and any successor statute, unless otherwise expressly provided;
- (d) any reference to a specific executive position or an internal division or department of a Party shall include any successor positions, divisions or departments having substantially the same responsibilities or performing substantially the same functions;

- (e) when calculating the period of time within which or following which any act is to be done or step taken, the date which is the reference day in calculating such period shall be excluded, and if the last day of such period is not a Business Day, the period shall end on the next Business Day;
- (f) all dollar amounts are expressed in Canadian dollars;
- (g) the division of this Agreement into separate Articles, Sections, subsections and Schedules and the insertion of headings is for convenience of reference only and shall not affect the construction or interpretation of this Agreement;
- (h) words or abbreviations which have well known or trade meanings are used in accordance with their recognized meanings;
- (i) the terms and conditions are the result of negotiations between the Parties and the Parties therefore agree that this Agreement shall not be construed in favour of or against any Party by reason of the extent to which any Party or its professional advisors participated in the preparation of this Agreement.

## **ARTICLE 2 TERM**

### **2.1 Term**

Unless terminated in accordance with Section 10.1, this Agreement shall come into force on the Effective Date and shall continue in full force and effect for a period of five (5) years. Thereafter, the term shall be automatically renewed for further successive periods of one (1) year each unless a Party gives notice in writing that the Agreement is not to be extended on a date which is at least ninety (90) days prior to the end of the initial five (5) year term, or the end of any renewal term, as the case may be.

## **ARTICLE 3 SERVICES, EQUIPMENT, LEASED PREMISES AND COVENANTS**

### **3.1 Personnel Services**

Subject to the terms, covenants and conditions contained in this Agreement, upon request, BWP Distribution will provide, or cause to be provided, to BRNI the services of certain personnel as listed by title under the heading "Services" in Schedule "A" employed by BWP Distribution ("Personnel").

### **3.2 Equipment**

Subject to the terms, covenants and conditions contained in this Agreement, BWP Distribution will also provide to BRNI certain equipment owned by BWP Distribution ("Equipment") for use by BRNI.

### 3.3 Use of Premises

BRNI has requested and BWP Distribution has granted non-exclusive use of the building or facilities owned by BWP Distribution set out in Schedule "A" for the annual rate set out therein.

### 3.4 BWP Distribution Covenants

- (a) BWP Distribution shall be responsible for obtaining all necessary licences and permits and for complying with all applicable federal, provincial and municipal laws, codes and regulations in connection with the provision of the Services and BWP Distribution shall, when requested, provide BRNI with adequate evidence of its compliance with this Section 3.4.
- (b) BWP Distribution's Personnel shall, while providing services to BRNI, comply with all the rules and regulations of BRNI from time to time in force, which are brought to their notice or of which they should reasonably be aware.
- (c) BWP Distribution shall pay for and maintain for the benefit of BWP Distribution and BRNI appropriate insurance concerning the operations and liabilities of BWP Distribution relevant to this Agreement including, without limiting the generality of the foregoing, workplace safety and employment insurance in conformity with applicable statutory requirements in respect of any remuneration payable by BWP Distribution to any employees of BWP Distribution and public liability and property damage insurance.

### 3.5 BRNI Covenants

- (a) BRNI shall be responsible for obtaining all necessary licences and permits and for complying with all applicable federal, provincial and municipal laws, codes and regulations required to conduct its business and to use the Equipment and the Leased Premises.
- (b) BRNI shall not, without BWP Distribution's prior consent, make any alternations, additions or improvements to the Equipment and shall, while using the Equipment, use reasonable care and skill.
- (c) Notwithstanding any other provision of this Agreement, BRNI shall be fully responsible for any damage to or loss of any of the Equipment or any portion thereof while the Equipment is in its possession, reasonable wear and tear excepted.
- (d) BRNI shall not part with possession of, sell, assign, lease, sublease, rent or otherwise transfer any of the Equipment or any portion of the Leased Premises.
- (e) BRNI shall, while utilizing any portion of the Leased Premises, comply with all rules and regulations of BWP Distribution from time to time in force, which are brought to its notice or of which it should reasonably be aware, and shall be responsible for any damage or loss of the Leased Premises or any portion thereof.

- (f) BRNI shall use the Leased Premises solely for the purposes described in Section 3.3 above and shall not make or cause to be made any alterations, additions or improvements or erect or cause to be erected any partitions or install or cause to be installed any trade fixtures, signs, floor covering, interior or exterior lighting, plumbing fixtures, apparatus for air-conditioning, cooling, heating, illuminating, refrigerating, or ventilating in the Leased Premises, or make any changes to the Leased Premises without first obtaining BWP Distribution's written approval thereto.
- (g) BRNI shall not do or permit to be done or omitted anything which could damage the Leased Premises or injure or impede the business of BWP Distribution conducted from the balance of Main Substation #1 and/or 855 Confederation Street, Sarnia, Ontario (collectively, the "Properties") or which shall or might result in any nuisance in or about the Properties, whether to BWP Distribution, any tenant of the Properties, or any other party, the whole as determined by BWP Distribution, acting reasonably. In any of the foregoing events, BRNI shall forthwith remedy the same and if such thing or condition shall not be so remedied, BWP Distribution may, after such notice, if any, as BWP Distribution may deem appropriate in the circumstances, correct such situation at the expense of BRNI and BRNI shall pay such expense to BWP Distribution.
- (h) BRNI shall keep the Leased Premises in a neat, clean and sanitary condition and shall not allow any refuse, garbage or other loose or objectionable or waste material to accumulate in or about such Leased Premises.
- (i) BRNI shall permit BWP Distribution access, upon request at any time during the term hereof, to the Leased Premises.

### 3.6 Regulatory Change

If any change of Law after the date of this Agreement renders this Agreement illegal or unenforceable, then the Parties shall be required to renegotiate in good faith for thirty (30) days with a goal of developing a substitute agreement with such amendments as are necessary to comply with such change of Law.

## **ARTICLE 4 MUTUAL COVENANTS**

### 4.1 Confidentiality of Confidential Information

No Personnel of a Party shall have access to any Confidential Information in the possession of the other Party, except for purposes related to the provision of Services and in compliance with the Affiliate Relationship Code for Electricity Distributors and Transmitters prescribed by the Ontario Energy Board.

### 4.2 Maintain Records

The Parties will maintain such records as may be necessary in connection with this Agreement and as are agreed upon by the Parties, acting reasonably.

#### 4.3 Notification of Changes of Circumstances

BWP Distribution shall promptly give written notice to BRNI of any changes or prospective changes in circumstances that would materially affect the resources required for the Personnel, Equipment or Leased Premises provided to BRNI, including any anticipated material change in the nature or level of business of BWP Distribution, the number of employees of BWP Distribution, the equipment of BWP Distribution or any efforts relating to the organization of or collective bargaining by employees of BWP Distribution, or any lease or service arrangements contemplated with any third parties.

#### 4.4 Notice of Claims, Etc.

BWP Distribution shall promptly give written notice to BRNI, and BRNI shall promptly give written notice to BWP Distribution, of all material claims, proceedings, notice of regulatory non-compliance from any regulatory authority, disputes (including labour disputes) or litigation (collectively, "Claims") which it reasonably believes could have a material adverse effect on the fulfillment of any of the material terms hereof by BWP Distribution or BRNI (whether or not any such Claim is covered by insurance) in respect of its own operations of which any of them is aware. Each Party shall provide the other Party with all information reasonably requested from time to time concerning the status of such Claims and any developments relating thereto.

### **ARTICLE 5 FEES AND COSTS**

#### 5.1 Fees

As consideration for the Personnel, Equipment and Leased Premises provided, BRNI shall pay to BWP Distribution the fees and charges set out in Schedule "A". BWP Distribution shall render a monthly invoice for all Personnel and Equipment provided to BRNI, as well as for use of the Leased Premises, during the preceding month, which invoice shall be due and payable within thirty (30) days of receipt.

#### 5.2 Out of Pocket and Third Party Expenses

BWP Distribution shall be reimbursed for all out-of-pocket expenses actually and properly incurred by BWP Distribution in connection with the provision of Personnel, Equipment and/or the Leased Premises.

#### 5.3 Taxes

BRNI shall pay to BWP Distribution any and all goods and services taxes, sales taxes, value-added taxes and/or any other taxes (excluding income taxes) properly eligible on the supply of Personnel, Equipment and/or Leased Premises provided under this Agreement and on any other amounts payable hereunder.



## **ARTICLE 6 REPRESENTATIONS AND WARRANTIES**

### **6.1 Representations and Warranties of BWP Distribution**

BWP Distribution represents and warrants to BRNI as follows and acknowledges that BRNI is relying on such representations and warranties:

- (a) BWP Distribution is a corporation duly incorporated and validly existing under the laws of the Province of Ontario and has the rights, powers and privileges to execute and deliver this Agreement and to perform its obligations hereunder;
- (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate action;
- (c) this Agreement constitutes a legal, valid and binding obligation of BWP Distribution, enforceable against BWP Distribution by BRNI in accordance with its terms except as may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction; and
- (d) BWP Distribution has the necessary resources and expertise to acquire or perform the Services.

### **6.2 Representations and Warranties of BRNI**

BRNI represents and warrants to BWP Distribution as follows and acknowledges that BWP Distribution is relying on such representations and warranties:

- (a) BRNI is a corporation duly incorporated and validly existing under the laws of the Province of Ontario and has the rights, powers and privileges to execute and deliver this Agreement and to perform its obligations hereunder;
- (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate actions; and
- (c) this Agreement constitutes a legal, valid and binding obligation of BRNI, enforceable against BRNI by BWP Distribution in accordance with its terms except as may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction.

## **ARTICLE 7 INDEMNIFICATION**

### **7.1 Indemnification**

- (a) BRNI shall indemnify, defend and hold harmless BWP Distribution, its officers, directors, and employees (each a "BWP Distribution Indemnatee") from and against any and all claims, demands, suits, losses, liabilities, damages, obligations, payments,



costs and expenses and accrued interest thereon (including the costs and expenses of, and accrued interest in respect of, any and all actions, suits, proceedings, assessments, judgements, awards, settlements and compromises relating thereto and reasonable lawyers' fees and reasonable disbursements in connection therewith) (each an "Indemnifiable Loss"), asserted against or suffered by any BWP Distribution Indemnitee relating to, or in connection with, or resulting from or arising out of the provision of services of the Personnel provided hereunder, use of the Equipment by BRNI and/or possession, occupation and/or use of the Leased Premises by BRNI.

- (b) BWP Distribution shall be deemed to hold the provisions of Section 7.1(a) that are for the benefit of BWP Distribution Indemnities that are not party to this Agreement in trust for such persons as third party beneficiaries under this Agreement.

## 7.2 Limit of Liability

- (a) Should BWP Distribution be held liable by a court of law for any reason outside of the Indemnity under Section 7.1(a), BRNI agrees that BWP Distribution's liability to BRNI or any third party in connection with or arising under this Agreement, including without limitation, any liability arising from any act or omission of BWP Distribution in the provision of the Personnel, Equipment and/or the Leased Premises, whether arising in contract, tort, equity or otherwise, shall be limited to actions or liabilities resulting solely from the fraud or wilful misconduct of BWP Distribution in the provision of the Personnel, Equipment and/or the Leased Premises and shall not exceed an amount equal to the total amount paid by BRNI to BWP Distribution under this Agreement for Personnel, Equipment and Leased Premises over the twelve month period immediately preceding the date that the cause of action or claim giving rise to the liability first arose.
- (b) BWP Distribution shall not be liable for any damages caused by delay in delivering or furnishing any Personnel, Equipment or Leased Premises referred to in this Agreement.

## 7.3 Fines, Etc.

Notwithstanding anything else to the contrary in this Agreement, the Parties agree that BWP Distribution shall not be responsible for any sanctions, fines, penalties, or similar obligations imposed on BRNI, and BRNI agrees to indemnify and hold harmless BWP Distribution from any such sanctions fines, penalties or similar obligations.

# ARTICLE 8 DEFAULT

## 8.1 Events of Default

The occurrence of any one or more of the following events shall constitute a default (a "Default") by a Party (the "Defaulting Party") under this Agreement and shall constitute an "Event of Default" if such Default is not remedied prior to the expiry of any notice period and any cure period applicable to such Default:

- (a) if the Defaulting Party defaults in the payment of any amount due to the other Party under this Agreement and such default shall continue unremedied for sixty (60) days following notice in writing thereof to the Defaulting Party by the other Party; or
- (b) if the Defaulting Party fails in any material respect to perform or observe any of its other material obligations under this Agreement and such failure shall continue unremedied for a period of sixty (60) days following notice in writing thereof (giving particulars of the failure in reasonable detail) from the other Party to the Defaulting Party or such longer period as may be reasonably necessary to cure such failure (if such failure is capable of being cured), provided that the Defaulting Party:
  - (i) proceeds with all due diligence to cure or cause to be cured such failure; and
  - (ii) in proceeding so, can be reasonably expected to cure or cause to be cured such failure within a reasonable time frame acceptable to the other Party acting reasonably.

## **ARTICLE 9 REMEDIES**

### **9.1 Default Remedies**

- (a) Unless otherwise agreed to in writing, in the event of an Event of Default the non-defaulting Party may terminate this Agreement as it relates to the non-defaulting Party upon notice in writing and all amounts payable by the defaulting Party hereunder shall become due and payable forthwith.
- (b) The remedies in this section are expressly in lieu of any or all of the remedies, which may be available to each of BWP Distribution and BRNI in respect of or under this Agreement resulting from the furnishing, the failure to furnish or the quality of any Services.

## **ARTICLE 10 TERMINATION**

### **10.1 Termination**

This Agreement shall terminate:

- (a) in accordance with the provisions of Section 9.1; or
- (b) upon issuance of a notice of non-renewal in accordance with Section 2.1.

### **10.2 Notice of Termination**

Any termination hereof pursuant to Section 10.1 shall be by written notice of the terminating Party.

## **ARTICLE 11 GENERAL**

### **11.1 Force Majeure**

No Party shall be liable for a failure or delay in the performance of its obligations pursuant to this Agreement:

- (a) provided that such failure or delay could not have been prevented by reasonable precautions;
- (b) provided that such failure or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, work around plans or other means; and
- (c) if and to the extent such failure or delay is caused, directly or indirectly, by fire, flood, earthquake, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions, strikes, lock outs or labour disruptions or revolutions in Canada, or any other similar causes beyond the reasonable control of such Party, (each a "Force Majeure Event").

Upon the occurrence of a Force Majeure Event, the non-performing Party shall be excused from any further performance of those of its obligations pursuant to this Agreement affected by the Force Majeure Event only for so long as:

- (i) such Force Majeure Event continues; and
- (ii) such Party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

The Party delayed by a Force Majeure Event shall:

- (a) immediately notify the other Parties by telephone (to be confirmed in writing within five (5) days of the inception of such delay) of the occurrence of a Force Majeure Event; and
- (b) describe in reasonable detail the circumstances causing the Force Majeure Event.

### **11.2 Dispute Resolution**

If any dispute arising in relation to an Event of Default under Section 8.1(b) or the implementation of the cure for the Default under Section 8.1(b) cannot be resolved by negotiation between the Parties, then the dispute shall be referred to one arbitrator agreeable to and appointed by both Parties. If the Parties cannot agree on one arbitrator, the matter in dispute shall be referred to a panel of three arbitrators, one of which shall be appointed by BWP Distribution, one of which shall be appointed by BRNI and the third shall be appointed by the two arbitrators selected by BWP Distribution and BRNI. The arbitrator or arbitrators shall receive such oral and written evidence as may be required to investigate the matter in dispute and to render a decision and shall be guided by this Agreement and the intent of this Agreement. The decision of the arbitrator or arbitrators shall

be provided in writing to the Parties no later than thirty (30) days after the sole arbitrator or the third arbitrator has been appointed. The decision of the arbitrator or arbitrators shall be final and binding on the Parties.

### 11.3 Assignment

Neither Party shall, without the written consent of the other Party, which may be arbitrarily withheld in the sole discretion of a Party, assign or transfer its interest in this Agreement. This Agreement shall be binding on the Parties and their respective successors and permitted assigns. Any purported assignment in contravention of this Agreement shall be void.

### 11.4 Notices

All notices, request, approvals, consents and other communications required or permitted under this Agreement shall be in writing and addressed as follows:

(a) if to BRNI,

P.O. Box 2140  
855 Confederation Street  
Sarnia, ON N7T 7L6

Attn: Chris Gould  
Fax: 519-344-6094  
Email: [Chris@bregional.com](mailto:Chris@bregional.com)

(b) if to BWP Distribution,

P.O. Box 2140  
855 Confederation Street  
Sarnia, ON N7T 7L6

Attn: Janice McMichael-Dennis  
Fax: 519-344-6094  
Email: [jmcmichael-dennis@bluewaterpower.com](mailto:jmcmichael-dennis@bluewaterpower.com)

and shall be sent by fax and the Party sending such notice shall telephone to confirm receipt. A copy of any such notice shall also be sent on the date such notice is transmitted by fax, by email, by registered express mail or courier with the capacity to verify receipt of delivery. Either Party may change its address or fax number for notification purposes by giving the other Party notice of the new address or fax number and the date upon which it will become effective in accordance with the terms of this Agreement. A notice shall be deemed to have been received as of the next Business Day following its transmission by fax.

### 11.5 Severability

If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable or contrary to law, then the remaining provisions of this Agreement, or the application of such provisions to persons or circumstances other than those as to which it is invalid or unenforceable

shall not be affected thereby, and each such provision of this Agreement shall be valid and enforceable to the extent granted by law. If any clause is deemed unenforceable or contrary to law, the parties shall alter the said clause and this agreement to produce enforceability or compliance with law such that the intent of the original clause is maintained and such change or alteration may be established through the dispute resolution clause in this agreement.

#### 11.6 Waiver

No delay or omission by a Party to exercise any right or power it has under this Agreement or to object to the failure of any covenant of the other Party to be performed in a timely and complete manner, shall impair any such right or power or be construed as a waiver of any succeeding breach or any other covenant. All waivers must be in writing and signed by the Party waiving its rights.

#### 11.7 Entire Agreement

This Agreement constitutes the entire Agreement between the Parties with respect to the subject matter hereof, and there are no other representations, understandings or agreements, either oral or written, between the Parties other than as set out in this Agreement.

#### 11.8 Amendments

No amendment to, or change, waiver or discharge of, any provision of this Agreement shall be valid unless in writing and signed by authorized representatives of each Party.

#### 11.9 Governing Law

This Agreement shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein. The Parties hereby agree that the courts of the Province of Ontario shall have exclusive jurisdiction over disputes under this Agreement, and the Parties agree that jurisdiction and venue in such courts is appropriate and irrevocably attach to the jurisdiction of such courts.

#### 11.10 Survival

The terms of Article 7, Article 9 and Article 11 shall survive the expiration of this Agreement or termination of this Agreement for any reason.

#### 11.11 Third Party Beneficiaries

Each Party intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any person or entity other than the Parties.

#### 11.12 Covenant of Further Assurances

The Parties agree that, subsequent to the execution and delivery of this Agreement and without any additional consideration, the Parties shall execute and deliver or cause to be executed and delivered any further legal instruments and perform any acts, which are or may become necessary to effectuate the purposes of this Agreement and to complete the transactions contemplated under it.

11.13 Independent Contractors

The Parties are independent contractors and BWP Distribution shall not be considered to be an agent of BRNI. It is further understood and agreed that this Agreement does not constitute a partnership or joint venture between the Parties.

IN WITNESS WHEREOF, this Agreement has been executed by the duly authorized signatories of the parties hereto as of the date first written above.

**BLUEWATER REGIONAL  
NETWORKS INC.**


Per: \_\_\_\_\_

  
Name: Chris Gould  
Title: COO

I/we have authority to bind the corporation

**BLUEWATER POWER  
DISTRIBUTION CORPORATION**

Per: \_\_\_\_\_

  
Name: Janice McMichael-Dennis  
Title: CEO

I/we have authority to bind the corporation

## SCHEDULE "A"

### Fees & Charges

	SERVICES	FEES	PERIOD OF FEE
1.	Personnel	Cost	Monthly
2.	Equipment use	Cost	Monthly
3.	855 Confederation St. office space	\$2,559	Annually
*	Fee subject to 2% inflationary increase on January 1, 2022 and each year thereafter		

Terms & Conditions		
1	Prices	Subject to Applicable Taxes
2	Payment	Monthly invoice, Net 30 days
3	Cost	BWP Distribution's fully allocated cost



# **ATTACHMENT 4 – 8**

## **BPRI \_ DISTCO MANAGEMENT SERVICES AGREEMENT**



## **MANAGEMENT SERVICES AGREEMENT**

THIS MANAGEMENT SERVICES AGREEMENT made as of the 17<sup>th</sup> day of November, 2020,  
BETWEEN:

**BLUEWATER POWER RENEWABLE ENERGY INC.,**  
an Ontario corporation  
(“BPREI”)

and

**BLUEWATER POWER DISTRIBUTION CORPORATION,**  
an Ontario corporation  
(“BWP Distribution”)

WHEREAS:

- A. BWP Distribution carries on the business of distributing electricity within the City of Sarnia, the Town of Petrolia, the Village of Point Edward, the Village of Oil Springs, The Municipality of Brooke-Alvinston, and the Township of Warwick;
- B. BPREI carries on the business of water meter installation and maintenance, water billing, street light installation and maintenance, traffic light installation and maintenance and miscellaneous on demand line work, as well as civil work and ad hoc maintenance services; and
- C. BWP Distribution agrees to provide certain services to BPREI on the terms as set forth in this Agreement.

**NOW THEREFORE** in consideration of the mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### **ARTICLE 1 INTERPRETATION**

#### **1.1 Definitions**

In this Agreement and in the Schedules, the following terms and expressions will have the following meanings:

- (a) “Agreement” means this Services Agreement together with all Schedules attached to it, as they may be amended from time to time;
- (b) “Business Day” means any day other than a Saturday, Sunday, statutory or bank holiday in the Province of Ontario;
- (c) “Claim” has the meaning ascribed to it in Section 4.4;

- (d) “Confidential Information” means information BWP Distribution has obtained relating to a specific consumer, retailer and/or generator in the process of providing current or prospective distribution service;
- (e) “Default” has the meaning ascribed to it in Section 8.1;
- (f) “Defaulting Party” has the meaning ascribed to it in Section 8.1;
- (g) “Effective Date” means January 1, 2021;
- (h) “Event of Default” has the meaning ascribed to it in Section 8.1;
- (i) “Force Majeure Event” has the meaning ascribed to it in Section 11.1;
- (j) “IESO” means the Independent Electricity System Operator;
- (k) “Law” means any law, rule, regulation, code, order, writ, judgement, decree or other legal or regulatory determination by a court, regulatory agency, including the IESO, or governmental authority of competent jurisdiction;
- (l) “Party” means a party to this Agreement and “Parties” refers to both BPREI and BWP Distribution collectively;
- (m) “Person” means an individual, corporation, partnership, joint venture, association, trust, pension fund, union, governmental agency, official, board, tribunal, ministry, commission or department;
- (n) “Personnel” means employees, agents, professional advisors, contractors and subcontractors;
- (o) “Services” has the meaning ascribed to it in Section 3.1 of this Agreement;
- (p) “Service Standards” has the meaning ascribed to it in Section 3.2 of this Agreement;
- (q) “Term” has the meaning ascribed to it in Section 2.1 of this Agreement; and
- (r) “Third Party Expenses” means all fees, costs and charges paid to third parties by BWP Distribution on behalf of BPREI in connection with providing the Services or incurred by BWP Distribution’s employees while providing Services under this Agreement.

## 1.2 Construction of Agreement

In this Agreement:

- (a) words denoting the singular include the plural and vice versa and words denoting any gender include all genders;
- (b) all usage of the word “including” or the phrase “e.g.,” in this Agreement shall mean “including, without limitation,” throughout this Agreement;

- (c) any reference to a statute shall mean the statute in force as at the date hereof, together with all regulations promulgated under it, as the same may be amended, re-enacted, consolidated or replaced, from time to time, and any successor statute, unless otherwise expressly provided;
- (d) any reference to a specific executive position or an internal division or department of a Party shall include any successor positions, divisions or departments having substantially the same responsibilities or performing substantially the same functions;
- (e) when calculating the period of time within which or following which any act is to be done or step taken, the date which is the reference day in calculating such period shall be excluded, and if the last day of such period is not a Business Day, the period shall end on the next Business Day;
- (f) all dollar amounts are expressed in Canadian dollars;
- (g) the division of this Agreement into separate Articles, Sections, subsections and Schedules and the insertion of headings is for convenience of reference only and shall not affect the construction or interpretation of this Agreement;
- (h) words or abbreviations which have well known or trade meanings are used in accordance with their recognized meanings;
- (i) the terms and conditions are the result of negotiations between the Parties and the Parties therefore agree that this Agreement shall not be construed in favour of or against any Party by reason of the extent to which any Party or its professional advisors participated in the preparation of this Agreement.

## **ARTICLE 2**

### **TERM**

#### **2.1    Term**

Unless terminated in accordance with Section 10.1, this Agreement shall come into force on the Effective Date and shall continue in full force and effect for a period of five (5) years. Thereafter, the term shall be automatically renewed for further successive periods of one (1) year each unless a Party gives notice in writing that the Agreement is not to be extended on a date which is at least ninety (90) days prior to the end of the initial five (5) year term, or the end of any renewal term, as the case may be.

## **ARTICLE 3**

### **BWP DISTRIBUTION SERVICES AND COVENANTS**

#### **3.1    Services**

Subject to the terms, covenants and conditions contained in this Agreement, BWP Distribution will provide, or cause to be provided, to BPRI the services set out in Schedule "A" (collectively the "Services"), as may be required by BPRI.

### 3.2 Service Standards

BWP Distribution will provide the Services to BPREI, or cause them to be provided, to the standards set out in Schedule "B" (collectively the "Service Standards").

### 3.3 Changes

BPREI and BWP Distribution may, from time to time, during the term of this Agreement agree to modifications to a Service or a Service Standard by negotiating appropriate changes to the description of the Service or the Service Standard, as applicable, and the necessary associated amendments to the consideration for such Service or Service Standard. As evidence of such modifications, the Parties shall initial and attach amended Schedule(s) in this Agreement.

### 3.4 General BWP Distribution Covenants

- (a) BWP Distribution shall, when requested, provide BPREI with adequate evidence of its compliance with this Section 3.4.
- (b) BWP Distribution shall, while on site at any premises used by BPREI, comply with all the rules and regulations of BPREI from time to time in force, which are brought to its notice or of which it should reasonably be aware.
- (c) BWP Distribution shall pay for and maintain for the benefit of BWP Distribution and BPREI appropriate insurance concerning the operations and liabilities of BWP Distribution relevant to this Agreement including, without limiting the generality of the foregoing, workplace safety and employment insurance in conformity with applicable statutory requirements in respect of any remuneration payable by BWP Distribution to any employees of BWP Distribution and public liability and property damage insurance.

### 3.5 BPREI Covenants

- (a) BPREI shall be responsible for obtaining all necessary licences and permits and for complying with all applicable federal, provincial and municipal laws, codes and regulations required to conduct its business and to use the property of BWP Distribution.
- (b) BPREI shall pay for and maintain for the benefit of BPREI and BWP Distribution appropriate insurance concerning the operations and liabilities of BPREI relevant to this Agreement including, without limiting the generality of the foregoing, workplace safety and employment insurance in conformity with applicable statutory requirements in respect of any remuneration payable by BPREI to any employees of BPREI and public liability and property damage insurance.
- (c) BPREI shall not, without BWP Distribution's prior consent, make any alternations, additions or improvements to the property of BWP Distribution and shall, while using the property of BWP Distribution, use reasonable care and skill.

### 3.6 Regulatory Change

If any change of Law after the date of this Agreement renders this Agreement illegal or unenforceable, then the Parties shall be required to renegotiate in good faith for thirty (30) days with a goal of developing a substitute agreement with such amendments as are necessary to comply with such change of Law.

## **ARTICLE 4 MUTUAL COVENANTS**

### 4.1 Confidentiality of Confidential Information

No Personnel of a Party shall have access to any Confidential Information in the possession of the other Party, except for purposes related to the provision of Services and in compliance with the Affiliate Relationship Code for Electricity Distributors and Transmitters prescribed by the Ontario Energy Board.

### 4.2 Maintain Records

The Parties will maintain such records as may be necessary in connection with this Agreement and as are agreed upon by the Parties, acting reasonably.

### 4.3 Notification of Changes of Circumstances

BWP Distribution shall promptly give written notice to BPREI of any changes or prospective changes in circumstances that would materially affect the resources required for the Services provided to BPREI, including any anticipated material change in the nature or level of business of BWP Distribution, the number of employees of BWP Distribution, or any efforts relating to the organization of or collective bargaining by employees of BWP Distribution, or any lease or service arrangements contemplated with any third party.

### 4.4 Notice of Claims, Etc.

BWP Distribution shall promptly give written notice to BPREI, and BPREI shall promptly give written notice to BWP Distribution, of all material claims, proceedings, notice of regulatory non-compliance from any regulatory authority, disputes (including labour disputes) or litigation (collectively, "Claims") which it reasonably believes could have a material adverse effect on the fulfillment of any of the material terms hereof by BWP Distribution or BPREI (whether or not any such Claim is covered by insurance) in respect of its own operations of which either of them is aware. Each Party shall provide the other Party with all information reasonably requested from time to time concerning the status of such Claims and any developments relating thereto.

## **ARTICLE 5 FEES AND COSTS**

### **5.1     Fees**

As consideration for the Services provided, BPREI shall pay to BWP Distribution the fees and charges set out in Schedule "C". BWP Distribution shall render a quarterly invoice for all Services provided to BPREI during the preceding month, which invoice shall be due and payable within thirty (30) days of receipt.

### **5.2     Out of Pocket and Third Party Expenses**

BWP Distribution shall be reimbursed for all out-of-pocket expenses and Third Party Expenses actually and properly incurred by BWP Distribution in connection with the performance of Services hereunder.

### **5.3     Taxes**

BPREI shall pay to BWP Distribution any and all harmonized sales tax, value-added taxes and/or any other taxes (excluding income taxes) properly eligible on the supply of Services provided under this Agreement and on any other amounts payable hereunder.

## **ARTICLE 6 REPRESENTATIONS AND WARRANTIES**

### **6.1     Representations and Warranties of BWP Distribution**

BWP Distribution represents and warrants to BPREI as follows and acknowledges that BPREI is relying on such representations and warranties:

- (a) BWP Distribution is a corporation duly incorporated and validly existing under the laws of the Province of Ontario and has the rights, powers and privileges to execute and deliver this Agreement and to perform its obligations hereunder;
- (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate action;
- (c) this Agreement constitutes a legal, valid and binding obligation of BWP Distribution, enforceable against BWP Distribution by BPREI in accordance with its terms except as may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction; and
- (d) BWP Distribution has the necessary resources and expertise to acquire or perform the Services.

### **6.2     Representations and Warranties of BPREI**

BPREI represents and warrants to BWP Distribution as follows and acknowledges that BWP Distribution is relying on such representations and warranties:

- (a) BPREI is a corporation duly incorporated and validly existing under the laws of the Province of Ontario and has the rights, powers and privileges to execute and deliver this Agreement and to perform its obligations hereunder;
- (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate actions; and
- (c) this Agreement constitutes a legal, valid and binding obligation of BPREI, enforceable against BPREI by BWP Distribution in accordance with its terms except as may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction.

### 6.3 Warranty

The Services provided by BWP Distribution will be performed in a professional and workmanlike manner in accordance with the Service Standards, however, the Services are provided without warranty.

## **ARTICLE 7 INDEMNIFICATION**

### 7.1 Indemnification

- (a) BPREI shall indemnify, defend and hold harmless BWP Distribution, its officers, directors, and employees (each a "BWP Distribution Indemnatee") from and against any and all claims, demands, suits, losses, liabilities, damages, obligations, payments, costs and expenses and accrued interest thereon (including the costs and expenses of, and accrued interest in respect of, any and all actions, suits, proceedings, assessments, judgements, awards, settlements and compromises relating thereto and reasonable lawyers' fees and reasonable disbursements in connection therewith) (each an "Indemnifiable Loss"), asserted against or suffered by any BWP Distribution Indemnities relating to, or in connection with, or resulting from or arising out of the provision of the Services by BWP Distribution.
- (b) BWP Distribution shall be deemed to hold the provisions of Section 7.1(a) that are for the benefit of BWP Distribution Indemnities that are not party to this Agreement in trust for such persons as third party beneficiaries under this Agreement.

### 7.2 Limit of Liability

- (a) Should BWP Distribution be held liable by a court of law for any reason, BPREI agrees that BWP Distribution's liability to BPREI or any third party in connection with or arising under this Agreement, including without limitation, any liability arising from any act or omission of BWP Distribution in the provision of the Services, whether arising in contract, tort, equity or otherwise, shall be limited to, and BPREI shall indemnify BWP Distribution from, actions or liabilities resulting solely from the fraud or wilful misconduct of BWP Distribution in the provision of the Services and shall not exceed an amount equal to the total amount paid by BPREI

to BWP Distribution under this Agreement for Services over the twelve month period immediately preceding the date that the cause of action or claim giving rise to the liability first arose.

- (b) BWP Distribution shall not be liable for any damages caused by delay in delivering or furnishing any Services referred to in this Agreement.

### 7.3 Fines, Etc.

Notwithstanding anything else to the contrary in this Agreement, the Parties agree that BWP Distribution shall not be responsible for any sanctions, fines, penalties, or similar obligations imposed on BPREI, and BPREI agrees to indemnify and hold harmless BWP Distribution from any such sanctions fines, penalties or similar obligations.

## **ARTICLE 8 DEFAULT**

### 8.1 Events of Default

The occurrence of any one or more of the following events shall constitute a default (a "Default") by a Party (the "Defaulting Party") under this Agreement and shall constitute an "Event of Default" if such Default is not remedied prior to the expiry of any notice period and any cure period applicable to such Default:

- (a) if the Defaulting Party defaults in the payment of any amount due to the other Party under this Agreement and such default shall continue unremedied for sixty (60) days following notice in writing thereof to the Defaulting Party by the other Party;  
or
- (b) if the Defaulting Party fails in any material respect to perform or observe any of its other material obligations under this Agreement and such failure shall continue unremedied for a period of sixty (60) days following notice in writing thereof (giving particulars of the failure in reasonable detail) from the other Party to the Defaulting Party or such longer period as may be reasonably necessary to cure such failure (if such failure is capable of being cured), provided that the Defaulting Party:
  - (i) proceeds with all due diligence to cure or cause to be cured such failure;  
and
  - (ii) in proceeding so, can be reasonably expected to cure or cause to be cured such failure within a reasonable time frame acceptable to the other Party acting reasonably.



## **ARTICLE 9 REMEDIES**

### **9.1 Default Remedies**

- (a) Unless otherwise agreed to in writing, in the event of an Event of Default the non-defaulting Party may terminate this Agreement as it relates to the non-defaulting Party upon notice in writing and all amounts payable by the defaulting Party hereunder shall become due and payable forthwith.
- (b) The remedies in this section are expressly in lieu of any or all of the remedies which may be available to each of BWP Distribution and BPREDI in respect of or under this Agreement resulting from the furnishing, the failure to furnish or the quality of any Services.

## **ARTICLE 10 TERMINATION**

### **10.1 Termination**

This Agreement shall terminate:

- (a) in accordance with the provisions of Section 9.1; or
- (b) upon issuance of a notice of non-renewal in accordance with Section 2.1.

### **10.2 Notice of Termination**

Any termination hereof pursuant to Section 10.1 shall be by written notice of the terminating Party.

## **ARTICLE 11 GENERAL**

### **11.1 Force Majeure**

No Party shall be liable for a failure or delay in the performance of its obligations pursuant to this Agreement:

- (a) provided that such failure or delay could not have been prevented by reasonable precautions;
- (b) provided that such failure or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, work around plans or other means; and
- (c) if and to the extent such failure or delay is caused, directly or indirectly, by fire, flood, earthquake, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions, strikes, lock outs or labour disruptions or revolutions in Canada, or any other similar causes beyond the reasonable control of such Party, (each a "Force Majeure Event").

Upon the occurrence of a Force Majeure Event, the non-performing Party shall be excused from any further performance of those of its obligations pursuant to this Agreement affected by the Force Majeure Event only for so long as:

- (i) such Force Majeure Event continues; and
- (ii) such Party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

The Party delayed by a Force Majeure Event shall:

- (a) immediately notify the other Parties by telephone (to be confirmed in writing within five (5) days of the inception of such delay) of the occurrence of a Force Majeure Event; and
- (b) describe in reasonable detail the circumstances causing the Force Majeure Event.

#### 11.2 Dispute Resolution

If any dispute arising in relation to an Event of Default under Section 8.1(b) or the implementation of the cure for the Default under Section 8.1(b) cannot be resolved by negotiation between the Parties, then the dispute shall be referred to one arbitrator agreeable to and appointed by both Parties. If the Parties cannot agree on one arbitrator, the matter in dispute shall be referred to a panel of three arbitrators, one of which shall be appointed by BWP Distribution, one of which shall be appointed by BPREI and the third shall be appointed by the two arbitrators selected by BWP Distribution and BPREI. The arbitrator or arbitrators shall receive such oral and written evidence as may be required to investigate the matter in dispute and to render a decision and shall be guided by this Agreement and the intent of this Agreement. The decision of the arbitrator or arbitrators shall be provided in writing to the Parties no later than thirty (30) days after the sole arbitrator or the third arbitrator has been appointed. The decision of the arbitrator or arbitrators shall be final and binding on the Parties.

#### 11.3 Assignment

Neither Party shall, without the written consent of the other Party, which may be arbitrarily withheld in the sole discretion of a Party, assign or transfer its interest in this Agreement. This Agreement shall be binding on the Parties and their respective successors and permitted assigns. Any purported assignment in contravention of this Agreement shall be void.

#### 11.4 Notices

All notices, request, approvals, consents and other communications required or permitted under this Agreement shall be in writing and addressed as follows:

- (a) if to BPREI,

P.O. Box 2140  
855 Confederation Street  
Sarnia, ON N7T 7L6

Attn: Mark Hutson  
Fax: 519-344-6094  
Email: [mhutson@bluewaterpower.com](mailto:mhutson@bluewaterpower.com)

(b) if to BWP Distribution,

P.O. Box 2140  
855 Confederation Street  
Sarnia, ON N7T 7L6

Attn: Janice McMichael-Dennis  
Fax: 519-344-6094  
Email: [jmcmichael-dennis@bluewaterpower.com](mailto:jmcmichael-dennis@bluewaterpower.com)

and shall be sent by fax and the Party sending such notice shall telephone to confirm receipt. A copy of any such notice shall also be sent on the date such notice is transmitted by fax, by email, by registered express mail or courier with the capacity to verify receipt of delivery. Either Party may change its address or fax number for notification purposes by giving the other Party notice of the new address or fax number and the date upon which it will become effective in accordance with the terms of this Agreement. A notice shall be deemed to have been received as of the next Business Day following its transmission by fax.

#### 11.5 Severability

If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable or contrary to law, then the remaining provisions of this Agreement, or the application of such provisions to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each such provision of this Agreement shall be valid and enforceable to the extent granted by law. If any clause is deemed unenforceable or contrary to law, the parties shall alter the said clause and this agreement to produce enforceability or compliance with law such that the intent of the original clause is maintained and such change or alteration may be established through the dispute resolution clause in this agreement.

#### 11.6 Waiver

No delay or omission by a Party to exercise any right or power it has under this Agreement or to object to the failure of any covenant of the other Party to be performed in a timely and complete manner, shall impair any such right or power or be construed as a waiver of any succeeding breach or any other covenant. All waivers must be in writing and signed by the Party waiving its rights.

#### 11.7 Entire Agreement

This Agreement supersedes any prior agreement between BWP Distribution and BPRI in relation to the Services provided for in this Agreement, and constitutes the entire Agreement between the Parties with respect to the Services, and there are no other representations, understandings or agreements, either oral or written, between the Parties other than as set out in this Agreement.

#### 11.9 Governing Law

This Agreement shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein. The Parties hereby agree that the courts of the Province of Ontario shall have exclusive jurisdiction over disputes under this Agreement, and the Parties agree that jurisdiction and venue in such courts is appropriate and irrevocably attach to the jurisdiction of such courts.

#### 11.10 Survival

The terms of Article 7, Article 9 and Article 11 shall survive the expiration of this Agreement or termination of this Agreement for any reason.

#### 11.11 Third Party Beneficiaries

Each Party intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any person or entity other than the Parties.

#### 11.12 Covenant of Further Assurances

The Parties agree that, subsequent to the execution and delivery of this Agreement and without any additional consideration, the Parties shall execute and deliver or cause to be executed and delivered any further legal instruments and perform any acts which are or may become necessary to effectuate the purposes of this Agreement and to complete the transactions contemplated under it.

#### 11.13 Independent Contractors

The Parties are independent contractors and neither BWP Distribution nor any of its employees shall be considered to be an agent or employee of BPRI. Each of the Parties shall be solely responsible for each of its own employees. It is further understood and agreed that this Agreement does not constitute a partnership, joint venture or employment agreement between the Parties.

IN WITNESS WHEREOF this Agreement has been executed by the duly authorized signatories of the parties hereto as of the date first written above.

**BLUEWATER POWER RENEWABLE ENERGY  
INC.**

Per: 

Name: Mark Hutson  
Title: CFO

I have authority to bind the corporation

**BLUEWATER POWER DISTRIBUTION  
CORPORATION**

Per: 

Name: Janice McMichael-Dennis  
Title: President and C.E.O.

I have authority to bind the corporation

## SCHEDULE "A"

### Description of Services

1. **"Base Management Services"** will include those functions relating to the day-to-day activities normally associated with the provision of management services, but does not include administrative-type or supervisory functions which is carried out by BPREI utilizing its own staff. The types of services included in Base Management Services shall include:
  - (a) Treasury services will include cash flow management, banking, accounts payable services, account receivables, taxation (PILs), GST and PST remittances and corporate VISA card.
  - (b) Controllershship services will include financial systems, financial processes, policies and procedures, financial controls and compliance, financial reporting and analysis, annual budgets, financial operations, billing, collecting, capitalization and depreciation, WIP and inventory, labour charging, allocations and burdens, managing external audit, risk and contract management, insurance programs, liability, D&O, fleet, facilities, OEB reporting, incentive plan reporting, billing system quality control.
  - (c) Audit services include audit reports to Audit Committee and Board of Directors.
  - (d) Human resources services will include programming and consulting including recruitment, compensation and benefits, employee relations, labour relations.
  - (e) IT services will include personal computer systems support and communications support.
  - (f) Safety services will include safety program development, monitoring, reporting, implementation and support.
  - (g) General Management services relate to providing corporate direction, monitoring of progress and reporting to the Board of Directors.
  - (h) New support services will include such new services as may be agreed upon by the parties from time to time with a price to be negotiated at that time.
2. **"Project Management Services"** will include any service similar in nature to the services provided under the definition of Base Management Services, where the services rendered are beyond day-to-day activities. This will include an initiative to review a particular business unit or an assessment of a new business opportunity. Generally, time is docketed to Project Management Services by each manager involved in any initiative anticipated to require a total of eight (8) hours or more of management time.

3. **“Materials Management Services”**, if any, will include sourcing of material and stock-keeping services.
  - (a) Sourcing of materials will include sourcing and pricing of special order, as well as routine items that are to be purchased directly by BPREI.
  - (b) Stock-keeping services will include the provision of stock items not separately stocked by BPREI provided in accordance with a written request from BPREI on an as-needed basis.
4. **“Fleet Management”**, if any, will include scheduling and maintenance, as well as tracking mileage, maintenance costs and assisting in decisions regarding replacement of vehicles. The services also include repairing vehicles for service and carrying out of routine maintenance.
5. **“Board of Directors”**, will include an allocation of costs relating to the Board of Directors with shared responsibilities, including annual fees, meeting fees, travel, as well as Directors and Officers Liability insurance.

## **SCHEDULE "B"**

### **Description of Service Standards**

#### **Service Standards**

- (a) BWP Distribution will adhere to industry standards, based on standards set by the WSIB, Electric Utility Safety Association, and Occupational Health & Safety Standards as applicable and in any case shall perform the Services in a good and workmanlike manner and to a standard of performance that a competent professional and diligent independent provider of the services in the same circumstances would reasonably be expected to provide.
- (b) BWP Distribution will make all reasonable efforts to meet or exceed performance measures established by the Ontario Energy Board, Measurement Canada and by the IESO.



## SCHEDULE "C"

### Fees & Charges

	SERVICES	FEES	PERIOD OF FEE
1.	Base Management Services	\$4750	Annual; (fee subject to 2% inflationary increase on January 1, 2022 and each year thereafter)
2.	Project Management Services	Cost	
3.	Board of Directors	\$250	Annual; (fee subject to 2% inflationary increase on January 1, 2022 and each year thereafter)

Terms & Conditions		
1	Prices	Subject to Applicable Taxes
2	Payment	Monthly invoice, Net 30 days
3	Cost	Shall mean BWP Distribution's fully allocated cost to provide the Services



# **ATTACHMENT 4 – 9**

## **BPRI \_ DISTCO COST SHARING AGREEMENT**

## **COST SHARING AGREEMENT**

THIS AGREEMENT made as of the 17<sup>th</sup> day of November, 2020,

BETWEEN:

**BLUEWATER POWER RENEWABLE ENERGY INC.**  
an Ontario corporation  
(**"BPREI"**)

and

**BLUEWATER POWER DISTRIBUTION CORPORATION,**  
an Ontario corporation  
(**"BWP Distribution"**)

WHEREAS:

- A. BWP Distribution carries on the business of distributing electricity within the City of Sarnia, the Town of Petrolia, the Village of Point Edward, the Village of Oil Springs, the Township of Brooke-Alvinston, and the Township of Warwick;
- B. BPREI carries on the business of owning and operating renewable energy generation facilities;
- C. BPREI requires, from time to time, the services of additional persons, and use of certain equipment; and
- D. BWP Distribution has agreed to make available to BPREI certain of its personnel and its equipment and other resources on the terms as set forth in this Agreement.

**NOW THEREFORE** in consideration of the mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### **ARTICLE 1 INTERPRETATION**

#### **1.1 Definitions**

In this Agreement and in the schedules, the following terms and expressions will have the following meanings:

- (a) "Agreement" means this Agreement together with all Schedules attached to it, as they may be amended from time to time;
- (b) "Business Day" means any day other than a Saturday, Sunday, statutory or bank holiday in the Province of Ontario;
- (c) "Claim" has the meaning ascribed to it in Section 4.4;

- (d) “Default” has the meaning ascribed to it in Section 8.1;
- (e) “Defaulting Party” has the meaning ascribed to it in Section 8.1;
- (f) “Effective Date” means January 1, 2021;
- (g) “Event of Default” has the meaning ascribed to it in Section 8.1;
- (h) “Equipment” has the meaning ascribed to it in Section 3.2;
- (i) “Force Majeure Event” has the meaning ascribed to it in Section 11.1;
- (j) “Law” means any law, rule, regulation, code, order, writ, judgement, decree or other legal or regulatory determination by a court, regulatory agency or governmental authority of competent jurisdiction;
- (k) “Leased Premises” has the meaning ascribed to it in Section 3.3;
- (l) “Party” means a party to this Agreement and “Parties” refers to both BPREI and BWP Distribution collectively;
- (m) “Person” means an individual, corporation, partnership, joint venture, association, trust, pension fund, union, governmental agency, official, board, tribunal, ministry, commission or department;
- (n) “Personnel” has the meaning ascribed to it in Section 3.1; and
- (o) “Term” has the meaning ascribed to it in Section 2.1 of this Agreement.

## 1.2 Construction of Agreement

In this Agreement:

- (a) words denoting the singular include the plural and vice versa and words denoting any gender include all genders;
- (b) all usage of the word “including” or the phrase “e.g.,” in this Agreement shall mean “including, without limitation,” throughout this Agreement;
- (c) any reference to a statute shall mean the statute in force as at the date hereof, together with all regulations promulgated under it, as the same may be amended, re-enacted, consolidated or replaced, from time to time, and any successor statute, unless otherwise expressly provided;
- (d) any reference to a specific executive position or an internal division or department of a Party shall include any successor positions, divisions or departments having substantially the same responsibilities or performing substantially the same functions;

- (e) when calculating the period of time within which or following which any act is to be done or step taken, the date which is the reference day in calculating such period shall be excluded, and if the last day of such period is not a Business Day, the period shall end on the next Business Day;
- (f) all dollar amounts are expressed in Canadian dollars;
- (g) the division of this Agreement into separate Articles, Sections, subsections and Schedules and the insertion of headings is for convenience of reference only and shall not affect the construction or interpretation of this Agreement;
- (h) words or abbreviations which have well known or trade meanings are used in accordance with their recognized meanings;
- (i) the terms and conditions are the result of negotiations between the Parties and the Parties therefore agree that this Agreement shall not be construed in favour of or against any Party by reason of the extent to which any Party or its professional advisors participated in the preparation of this Agreement.

## **ARTICLE 2 TERM**

### **2.1 Term**

Unless terminated in accordance with Section 10.1, this Agreement shall come into force on the Effective Date and shall continue in full force and effect for a period of five (5) years. Thereafter, the term shall be automatically renewed for further successive periods of one (1) year each unless a Party gives notice in writing that the Agreement is not to be extended on a date which is at least ninety (90) days prior to the end of the initial five (5) year term, or the end of any renewal term, as the case may be.

## **ARTICLE 3 SERVICES, EQUIPMENT, LEASED PREMISES AND COVENANTS**

### **3.1 Personnel Services**

Subject to the terms, covenants and conditions contained in this Agreement, upon request, BWP Distribution will provide, or cause to be provided, to BPRI the services of certain personnel as listed by title under the heading "Services" in Schedule "A" employed by BWP Distribution ("Personnel").

### **3.2 Equipment**

Subject to the terms, covenants and conditions contained in this Agreement, BWP Distribution will also provide to BPRI certain equipment owned by BWP Distribution ("Equipment") for use by BPRI.

### 3.3 Use of Premises

BPREI has not requested and BWP Distribution has not granted exclusive use of any building or facilities owned by BWP Distribution.

### 3.4 BWP Distribution Covenants

- (a) BWP Distribution shall be responsible for obtaining all necessary licences and permits and for complying with all applicable federal, provincial and municipal laws, codes and regulations in connection with the provision of the Services and BWP Distribution shall, when requested, provide BPREI with adequate evidence of its compliance with this Section 3.4.
- (b) BWP Distribution's Personnel shall, while providing services to BPREI, comply with all the rules and regulations of BPREI from time to time in force, which are brought to their notice or of which they should reasonably be aware.
- (c) BWP Distribution shall pay for and maintain for the benefit of BWP Distribution and BPREI appropriate insurance concerning the operations and liabilities of BWP Distribution relevant to this Agreement including, without limiting the generality of the foregoing, workplace safety and employment insurance in conformity with applicable statutory requirements in respect of any remuneration payable by BWP Distribution to any employees of BWP Distribution and public liability and property damage insurance.

### 3.5 BPREI Covenants

- (a) BPREI shall be responsible for obtaining all necessary licences and permits and for complying with all applicable federal, provincial and municipal laws, codes and regulations required to conduct its business and to use the Equipment and the Leased Premises.
- (b) BPREI shall not, without BWP Distribution's prior consent, make any alternations, additions or improvements to the Equipment and shall, while using the Equipment, use reasonable care and skill.
- (c) Notwithstanding any other provision of this Agreement, BPREI shall be fully responsible for any damage to or loss of any of the Equipment or any portion thereof while the Equipment is in its possession, reasonable wear and tear excepted.
- (d) BPREI shall not part with possession of, sell, assign, lease, sublease, rent or otherwise transfer any of the Equipment or any portion of the Leased Premises.
- (e) BPREI shall, while utilizing any portion of the Leased Premises, comply with all rules and regulations of BWP Distribution from time to time in force, which are brought to its notice or of which it should reasonably be aware, and shall be responsible for any damage or loss of the Leased Premises or any portion thereof.

- (f) BPREI shall use the Leased Premises solely for the purposes described in Section 3.3 above and shall not make or cause to be made any alterations, additions or improvements or erect or cause to be erected any partitions or install or cause to be installed any trade fixtures, signs, floor covering, interior or exterior lighting, plumbing fixtures, apparatus for air-conditioning, cooling, heating, illuminating, refrigerating, or ventilating in the Leased Premises, or make any changes to the Leased Premises without first obtaining BWP Distribution's written approval thereto.
- (g) BPREI shall not do or permit to be done or omitted anything which could damage the Leased Premises or injure or impede the business of BWP Distribution conducted from the balance of Main Substation #1 and/or 855 Confederation Street, Sarnia, Ontario (collectively, the "Properties") or which shall or might result in any nuisance in or about the Properties, whether to BWP Distribution, any tenant of the Properties, or any other party, the whole as determined by BWP Distribution, acting reasonably. In any of the foregoing events, BPREI shall forthwith remedy the same and if such thing or condition shall not be so remedied, BWP Distribution may, after such notice, if any, as BWP Distribution may deem appropriate in the circumstances, correct such situation at the expense of BPREI and BPREI shall pay such expense to BWP Distribution.
- (h) BPREI shall keep the Leased Premises in a neat, clean and sanitary condition and shall not allow any refuse, garbage or other loose or objectionable or waste material to accumulate in or about such Leased Premises.
- (i) BPREI shall permit BWP Distribution access, upon request at any time during the term hereof, to the Leased Premises.

### 3.6 Regulatory Change

If any change of Law after the date of this Agreement renders this Agreement illegal or unenforceable, then the Parties shall be required to renegotiate in good faith for thirty (30) days with a goal of developing a substitute agreement with such amendments as are necessary to comply with such change of Law.

## **ARTICLE 4 MUTUAL COVENANTS**

### 4.1 Confidentiality of Confidential Information

No Personnel of a Party shall have access to any Confidential Information in the possession of the other Party, except for purposes related to the provision of Services and in compliance with the Affiliate Relationship Code for Electricity Distributors and Transmitters prescribed by the Ontario Energy Board.

### 4.2 Maintain Records

The Parties will maintain such records as may be necessary in connection with this Agreement and as are agreed upon by the Parties, acting reasonably.

#### 4.3 Notification of Changes of Circumstances

BWP Distribution shall promptly give written notice to BPREI of any changes or prospective changes in circumstances that would materially affect the resources required for the Personnel, Equipment or Leased Premises provided to BPREI, including any anticipated material change in the nature or level of business of BWP Distribution, the number of employees of BWP Distribution, the equipment of BWP Distribution or any efforts relating to the organization of or collective bargaining by employees of BWP Distribution, or any lease or service arrangements contemplated with any third parties.

#### 4.4 Notice of Claims, Etc.

BWP Distribution shall promptly give written notice to BPREI, and BPREI shall promptly give written notice to BWP Distribution, of all material claims, proceedings, notice of regulatory non-compliance from any regulatory authority, disputes (including labour disputes) or litigation (collectively, "Claims") which it reasonably believes could have a material adverse effect on the fulfillment of any of the material terms hereof by BWP Distribution or BPREI (whether or not any such Claim is covered by insurance) in respect of its own operations of which any of them is aware. Each Party shall provide the other Party with all information reasonably requested from time to time concerning the status of such Claims and any developments relating thereto.

### **ARTICLE 5 FEES AND COSTS**

#### 5.1 Fees

As consideration for the Personnel, Equipment and Leased Premises provided, BPREI shall pay to BWP Distribution the fees and charges set out in Schedule "A". BWP Distribution shall render a monthly invoice for all Personnel and Equipment provided to BPREI, as well as for use of the Leased Premises, during the preceding month, which invoice shall be due and payable within thirty (30) days of receipt.

#### 5.2 Out of Pocket and Third Party Expenses

BWP Distribution shall be reimbursed for all out-of-pocket expenses actually and properly incurred by BWP Distribution in connection with the provision of Personnel, Equipment and/or the Leased Premises.

#### 5.3 Taxes

BPREI shall pay to BWP Distribution any and all goods and services taxes, sales taxes, value-added taxes and/or any other taxes (excluding income taxes) properly eligible on the supply of Personnel, Equipment and/or Leased Premises provided under this Agreement and on any other amounts payable hereunder.



## **ARTICLE 6 REPRESENTATIONS AND WARRANTIES**

### **6.1 Representations and Warranties of BWP Distribution**

BWP Distribution represents and warrants to BPREI as follows and acknowledges that BPREI is relying on such representations and warranties:

- (a) BWP Distribution is a corporation duly incorporated and validly existing under the laws of the Province of Ontario and has the rights, powers and privileges to execute and deliver this Agreement and to perform its obligations hereunder;
- (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate action;
- (c) this Agreement constitutes a legal, valid and binding obligation of BWP Distribution, enforceable against BWP Distribution by BPREI in accordance with its terms except as may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction; and
- (d) BWP Distribution has the necessary resources and expertise to acquire or perform the Services.

### **6.2 Representations and Warranties of BPREI**

BPREI represents and warrants to BWP Distribution as follows and acknowledges that BWP Distribution is relying on such representations and warranties:

- (a) BPREI is a corporation duly incorporated and validly existing under the laws of the Province of Ontario and has the rights, powers and privileges to execute and deliver this Agreement and to perform its obligations hereunder;
- (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate actions; and
- (c) this Agreement constitutes a legal, valid and binding obligation of BPREI, enforceable against BPREI by BWP Distribution in accordance with its terms except as may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction.

## **ARTICLE 7 INDEMNIFICATION**

### **7.1 Indemnification**

- (a) BPREI shall indemnify, defend and hold harmless BWP Distribution, its officers, directors, and employees (each a "BWP Distribution Indemnitee") from and against any and all claims, demands, suits, losses, liabilities, damages, obligations, payments,

costs and expenses and accrued interest thereon (including the costs and expenses of, and accrued interest in respect of, any and all actions, suits, proceedings, assessments, judgements, awards, settlements and compromises relating thereto and reasonable lawyers' fees and reasonable disbursements in connection therewith) (each an "Indemnifiable Loss"), asserted against or suffered by any BWP Distribution Indemnitee relating to, or in connection with, or resulting from or arising out of the provision of services of the Personnel provided hereunder, use of the Equipment by BPREI and/or possession, occupation and/or use of the Leased Premises by BPREI.

- (b) BWP Distribution shall be deemed to hold the provisions of Section 7.1(a) that are for the benefit of BWP Distribution Indemnitees that are not party to this Agreement in trust for such persons as third party beneficiaries under this Agreement.

## 7.2 Limit of Liability

- (a) Should BWP Distribution be held liable by a court of law for any reason outside of the Indemnity under Section 7.1(a), BPREI agrees that BWP Distribution's liability to BPREI or any third party in connection with or arising under this Agreement, including without limitation, any liability arising from any act or omission of BWP Distribution in the provision of the Personnel, Equipment and/or the Leased Premises, whether arising in contract, tort, equity or otherwise, shall be limited to actions or liabilities resulting solely from the fraud or wilful misconduct of BWP Distribution in the provision of the Personnel, Equipment and/or the Leased Premises and shall not exceed an amount equal to the total amount paid by BPREI to BWP Distribution under this Agreement for Personnel, Equipment and Leased Premises over the twelve month period immediately preceding the date that the cause of action or claim giving rise to the liability first arose.
- (b) BWP Distribution shall not be liable for any damages caused by delay in delivering or furnishing any Personnel, Equipment or Leased Premises referred to in this Agreement.

## 7.3 Fines, Etc.

Notwithstanding anything else to the contrary in this Agreement, the Parties agree that BWP Distribution shall not be responsible for any sanctions, fines, penalties, or similar obligations imposed on BPREI, and BPREI agrees to indemnify and hold harmless BWP Distribution from any such sanctions fines, penalties or similar obligations.

# ARTICLE 8 DEFAULT

## 8.1 Events of Default

The occurrence of any one or more of the following events shall constitute a default (a "Default") by a Party (the "Defaulting Party") under this Agreement and shall constitute an "Event of Default" if such Default is not remedied prior to the expiry of any notice period and any cure period applicable to such Default:

- (a) if the Defaulting Party defaults in the payment of any amount due to the other Party under this Agreement and such default shall continue unremedied for sixty (60) days following notice in writing thereof to the Defaulting Party by the other Party; or
- (b) if the Defaulting Party fails in any material respect to perform or observe any of its other material obligations under this Agreement and such failure shall continue unremedied for a period of sixty (60) days following notice in writing thereof (giving particulars of the failure in reasonable detail) from the other Party to the Defaulting Party or such longer period as may be reasonably necessary to cure such failure (if such failure is capable of being cured), provided that the Defaulting Party:
  - (i) proceeds with all due diligence to cure or cause to be cured such failure; and
  - (ii) in proceeding so, can be reasonably expected to cure or cause to be cured such failure within a reasonable time frame acceptable to the other Party acting reasonably.

## **ARTICLE 9 REMEDIES**

### **9.1 Default Remedies**

- (a) Unless otherwise agreed to in writing, in the event of an Event of Default the non-defaulting Party may terminate this Agreement as it relates to the non-defaulting Party upon notice in writing and all amounts payable by the defaulting Party hereunder shall become due and payable forthwith.
- (b) The remedies in this section are expressly in lieu of any or all of the remedies, which may be available to each of BWP Distribution and BPREDI in respect of or under this Agreement resulting from the furnishing, the failure to furnish or the quality of any Services.

## **ARTICLE 10 TERMINATION**

### **10.1 Termination**

This Agreement shall terminate:

- (a) in accordance with the provisions of Section 9.1; or
- (b) upon issuance of a notice of non-renewal in accordance with Section 2.1.

### **10.2 Notice of Termination**

Any termination hereof pursuant to Section 10.1 shall be by written notice of the terminating Party.

## **ARTICLE 11 GENERAL**

### **11.1 Force Majeure**

No Party shall be liable for a failure or delay in the performance of its obligations pursuant to this Agreement:

- (a) provided that such failure or delay could not have been prevented by reasonable precautions;
- (b) provided that such failure or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, work around plans or other means; and
- (c) if and to the extent such failure or delay is caused, directly or indirectly, by fire, flood, earthquake, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions, strikes, lock outs or labour disruptions or revolutions in Canada, or any other similar causes beyond the reasonable control of such Party, (each a "Force Majeure Event").

Upon the occurrence of a Force Majeure Event, the non-performing Party shall be excused from any further performance of those of its obligations pursuant to this Agreement affected by the Force Majeure Event only for so long as:

- (i) such Force Majeure Event continues; and
- (ii) such Party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

The Party delayed by a Force Majeure Event shall:

- (a) immediately notify the other Parties by telephone (to be confirmed in writing within five (5) days of the inception of such delay) of the occurrence of a Force Majeure Event; and
- (b) describe in reasonable detail the circumstances causing the Force Majeure Event.

### **11.2 Dispute Resolution**

If any dispute arising in relation to an Event of Default under Section 8.1(b) or the implementation of the cure for the Default under Section 8.1(b) cannot be resolved by negotiation between the Parties, then the dispute shall be referred to one arbitrator agreeable to and appointed by both Parties. If the Parties cannot agree on one arbitrator, the matter in dispute shall be referred to a panel of three arbitrators, one of which shall be appointed by BWP Distribution, one of which shall be appointed by BPREI and the third shall be appointed by the two arbitrators selected by BWP Distribution and BPREI. The arbitrator or arbitrators shall receive such oral and written evidence as may be required to investigate the matter in dispute and to render a decision and shall be guided by this Agreement and the intent of this Agreement. The decision of the arbitrator or arbitrators shall

be provided in writing to the Parties no later than thirty (30) days after the sole arbitrator or the third arbitrator has been appointed. The decision of the arbitrator or arbitrators shall be final and binding on the Parties.

### 11.3 Assignment

Neither Party shall, without the written consent of the other Party, which may be arbitrarily withheld in the sole discretion of a Party, assign or transfer its interest in this Agreement. This Agreement shall be binding on the Parties and their respective successors and permitted assigns. Any purported assignment in contravention of this Agreement shall be void.

### 11.4 Notices

All notices, request, approvals, consents and other communications required or permitted under this Agreement shall be in writing and addressed as follows:

(a) if to BPREI,

P.O. Box 2140  
855 Confederation Street  
Sarnia, ON N7T 7L6

Attn: Mark Vanderheide  
Fax: 519-344-3878  
Email: [mvanderheide@bluewaterpower.com](mailto:mvanderheide@bluewaterpower.com)

(b) if to BWP Distribution,

P.O. Box 2140  
855 Confederation Street  
Sarnia, ON N7T 7L6

Attn: Janice McMichael-Dennis  
Fax: 519-344-6094  
Email: [jmcmichael-dennis@bluewaterpower.com](mailto:jmcmichael-dennis@bluewaterpower.com)

and shall be sent by fax and the Party sending such notice shall telephone to confirm receipt. A copy of any such notice shall also be sent on the date such notice is transmitted by fax, by email, by registered express mail or courier with the capacity to verify receipt of delivery. Either Party may change its address or fax number for notification purposes by giving the other Party notice of the new address or fax number and the date upon which it will become effective in accordance with the terms of this Agreement. A notice shall be deemed to have been received as of the next Business Day following its transmission by fax.

### 11.5 Severability

If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable or contrary to law, then the remaining provisions of this Agreement, or the application of such provisions to persons or circumstances other than those as to which it is invalid or unenforceable

shall not be affected thereby, and each such provision of this Agreement shall be valid and enforceable to the extent granted by law. If any clause is deemed unenforceable or contrary to law, the parties shall alter the said clause and this agreement to produce enforceability or compliance with law such that the intent of the original clause is maintained and such change or alteration may be established through the dispute resolution clause in this agreement.

#### 11.6 Waiver

No delay or omission by a Party to exercise any right or power it has under this Agreement or to object to the failure of any covenant of the other Party to be performed in a timely and complete manner, shall impair any such right or power or be construed as a waiver of any succeeding breach or any other covenant. All waivers must be in writing and signed by the Party waiving its rights.

#### 11.7 Entire Agreement

This Agreement constitutes the entire Agreement between the Parties with respect to the subject matter hereof, and there are no other representations, understandings or agreements, either oral or written, between the Parties other than as set out in this Agreement.

#### 11.8 Amendments

No amendment to, or change, waiver or discharge of, any provision of this Agreement shall be valid unless in writing and signed by authorized representatives of each Party.

#### 11.9 Governing Law

This Agreement shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein. The Parties hereby agree that the courts of the Province of Ontario shall have exclusive jurisdiction over disputes under this Agreement, and the Parties agree that jurisdiction and venue in such courts is appropriate and irrevocably attach to the jurisdiction of such courts.

#### 11.10 Survival

The terms of Article 7, Article 9 and Article 11 shall survive the expiration of this Agreement or termination of this Agreement for any reason.

#### 11.11 Third Party Beneficiaries

Each Party intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any person or entity other than the Parties.

#### 11.12 Covenant of Further Assurances

The Parties agree that, subsequent to the execution and delivery of this Agreement and without any additional consideration, the Parties shall execute and deliver or cause to be executed and delivered any further legal instruments and perform any acts, which are or may become necessary to effectuate the purposes of this Agreement and to complete the transactions contemplated under it.




11.13 Independent Contractors

The Parties are independent contractors and BWP Distribution shall not be considered to be an agent of BPRED. It is further understood and agreed that this Agreement does not constitute a partnership or joint venture between the Parties.

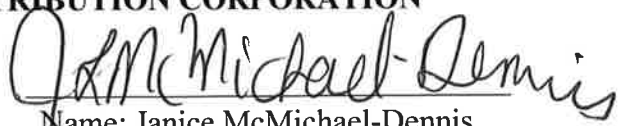
IN WITNESS WHEREOF, this Agreement has been executed by the duly authorized signatories of the parties hereto as of the date first written above.

**BLUEWATER POWER RENEWABLE  
ENERGY INC.**

Per:   
Name: Mark Hutson  
Title: CFO

I/we have authority to bind the corporation

**BLUEWATER POWER  
DISTRIBUTION CORPORATION**

Per:   
Name: Janice McMichael-Dennis  
Title: CEO

I/we have authority to bind the corporation

## **SCHEDULE "A"**

### **Fees & Charges**

	<b>SERVICES</b>	<b>FEES</b>	<b>PERIOD OF FEE</b>
1.	<b>Personnel</b>	Cost	Monthly
2.	<b>Equipment use</b>	Cost	Monthly

<b>Terms &amp; Conditions</b>		
1	Prices	Subject to Applicable Taxes
2	Payment	Monthly invoice, Net 30 days
3	Cost	BWP Distribution's fully allocated cost





# **ATTACHMENT 4 – 10**

## **DISTCO \_ SERVCO COST SHARING AGREEMENT**

## **COST SHARING AGREEMENT**

THIS AGREEMENT made as of the 17<sup>th</sup> day of November 2020,

BETWEEN:

**BLUEWATER POWER DISTRIBUTION CORPORATION,**  
an Ontario corporation  
(**"BWP Distribution"**)

and

**BLUEWATER POWER SERVICES CORPORATION**  
an Ontario corporation  
(**"BPSC"**)

WHEREAS:

- A. BWP Distribution carries on the business of distributing electricity within the City of Sarnia, the Town of Petrolia, the Village of Point Edward, the Village of Oil Springs, the Township of Brooke-Alvinston, and the Township of Warwick;
- B. BPSC carries on the business of water meter installation and maintenance, water billing, streetlight installation and maintenance, traffic light installation and maintenance and miscellaneous on demand line work, as well as civil work and ad hoc maintenance services; and
- C. BWP Distribution requires, from time to time, the services of additional persons, and use of certain equipment and use of certain physical space; and
- D. BPSC has agreed to make available to BWP Distribution certain of its personnel, its equipment, and other resources on the terms as set forth in this Agreement.

**NOW THEREFORE** in consideration of the mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### **ARTICLE 1 INTERPRETATION**

#### **1.1 Definitions**

In this Agreement and in the schedules, the following terms and expressions will have the following meanings:

- (a) "Agreement" means this Agreement together with all Schedules attached to it, as they may be amended from time to time;

- (b) “Business Day” means any day other than a Saturday, Sunday, statutory or bank holiday in the Province of Ontario;
- (c) “Claim” has the meaning ascribed to it in Section 4.4;
- (d) “Default” has the meaning ascribed to it in Section 8.1;
- (e) “Defaulting Party” has the meaning ascribed to it in Section 8.1;
- (f) “Effective Date” means January 1, 2021;
- (g) “Event of Default” has the meaning ascribed to it in Section 8.1;
- (h) “Equipment” has the meaning ascribed to it in Section 3.2;
- (i) “Force Majeure Event” has the meaning ascribed to it in Section 11.1;
- (j) “Law” means any law, rule, regulation, code, order, writ, judgement, decree or other legal or regulatory determination by a court, regulatory agency or governmental authority of competent jurisdiction;
- (k) “Party” means a party to this Agreement and “Parties” refers to both BPSC and BWP Distribution collectively;
- (l) “Person” means an individual, corporation, partnership, joint venture, association, trust, pension fund, union, governmental agency, official, board, tribunal, ministry, commission or department;
- (m) “Personnel” has the meaning ascribed to it in Section 3.1; and
- (n) “Term” has the meaning ascribed to it in Section 2.1 of this Agreement.

## 1.2 Construction of Agreement

In this Agreement:

- (a) words denoting the singular include the plural and vice versa and words denoting any gender include all genders;
- (b) all usage of the word “including” or the phrase “e.g.,” in this Agreement shall mean “including, without limitation,” throughout this Agreement;
- (c) any reference to a statute shall mean the statute in force as at the date hereof, together with all regulations promulgated under it, as the same may be amended, re-enacted, consolidated or replaced, from time to time, and any successor statute, unless otherwise expressly provided;
- (d) any reference to a specific executive position or an internal division or department of a Party shall include any successor positions, divisions or departments having

substantially the same responsibilities or performing substantially the same functions;

- (e) when calculating the period of time within which or following which any act is to be done or step taken, the date which is the reference day in calculating such period shall be excluded, and if the last day of such period is not a Business Day, the period shall end on the next Business Day;
- (f) all dollar amounts are expressed in Canadian dollars;
- (g) the division of this Agreement into separate Articles, Sections, subsections and Schedules and the insertion of headings is for convenience of reference only and shall not affect the construction or interpretation of this Agreement;
- (h) words or abbreviations which have well known or trade meanings are used in accordance with their recognized meanings;
- (i) the terms and conditions are the result of negotiations between the Parties and the Parties therefore agree that this Agreement shall not be construed in favour of or against any Party by reason of the extent to which any Party or its professional advisors participated in the preparation of this Agreement.

## **ARTICLE 2**

### **TERM**

#### **2.1    Term**

Unless terminated in accordance with Section 10.1, this Agreement shall come into force on the Effective Date and shall continue in full force and effect for a period of five (5) years. Thereafter, the term shall be automatically renewed for further successive periods of one (1) year each unless a Party gives notice in writing that the Agreement is not to be extended on a date which is at least ninety (90) days prior to the end of the initial five (5) year term, or the end of any renewal term, as the case may be.

## **ARTICLE 3**

### **SERVICES, EQUIPMENT, LEASED PREMISES AND COVENANTS**

#### **3.1    Personnel Services**

Subject to the terms, covenants and conditions contained in this Agreement, upon request, BPSC will provide, or cause to be provided, to BWP Distribution the services of certain personnel as listed by title under the heading "Services" in Schedule "A" employed by BPSC ("Personnel").

#### **3.2    Equipment**

Subject to the terms, covenants and conditions contained in this Agreement, BPSC will also provide to BWP Distribution certain equipment owned by BPSC ("Equipment") for use by BWP Distribution.

### 3.3 BPSC Covenants

(a) BPSC Personnel shall, while providing services to BWP Distribution, comply with all the rules and regulations of BWP Distribution from time to time in force, which are brought to their notice or of which they should reasonably be aware.

### 3.4 BWP Distribution Covenants

(a) BWP Distribution shall be responsible for obtaining all necessary licences and permits and for complying with all applicable federal, provincial and municipal laws, codes and regulations required to conduct its business utilizing shared employees of BPSC.

(b) Notwithstanding any other provision of this Agreement, BPSC shall be fully responsible for any damage to or loss of any of the Equipment or any portion thereof while the Equipment is in its possession, reasonable wear and tear excepted.

### 3.5 Regulatory Change

If any change of Law after the date of this Agreement renders this Agreement illegal or unenforceable, then the Parties shall be required to renegotiate in good faith for thirty (30) days with a goal of developing a substitute agreement with such amendments as are necessary to comply with such change of Law.

## **ARTICLE 4 MUTUAL COVENANTS**

### 4.1 Confidentiality of Confidential Information

No Personnel of a Party shall have access to any Confidential Information in the possession of the other Party, except for purposes related to the provision of Services and in compliance with the Affiliate Relationship Code for Electricity Distributors and Transmitters prescribed by the Ontario Energy Board.

### 4.2 Maintain Records

The Parties will maintain such records as may be necessary in connection with this Agreement and as are agreed upon by the Parties, acting reasonably.

### 4.3 Notification of Changes of Circumstances

BWP Distribution shall promptly give written notice to BPSC of any changes or prospective changes in circumstances that would materially affect the resources required for the Personnel, Equipment or Leased Premises provided to BPSC, including any anticipated material change in the nature or level of business of BWP Distribution, the number of employees of BWP Distribution, the equipment of BWP Distribution or any efforts relating to the organization of or collective bargaining by employees of BWP Distribution, or any lease or service arrangements contemplated with any third parties.

#### 4.4 Notice of Claims, Etc.

BWP Distribution shall promptly give written notice to BPSC, and BPSC shall promptly give written notice to BWP Distribution, of all material claims, proceedings, notice of regulatory non-compliance from any regulatory authority, disputes (including labour disputes) or litigation (collectively, "Claims") which it reasonably believes could have a material adverse effect on the fulfillment of any of the material terms hereof by BWP Distribution or BPSC (whether or not any such Claim is covered by insurance) in respect of its own operations of which any of them is aware. Each Party shall provide the other Party with all information reasonably requested from time to time concerning the status of such Claims and any developments relating thereto.

### **ARTICLE 5 FEES AND COSTS**

#### 5.1 Fees

As consideration for the Personnel and Equipment provided, BWP Distribution shall pay to BPSC the fees and charges set out in Schedule "A". BPSC shall allocate shared costs for all Personnel provided to BWP Distribution, as well as for use of the equipment during the preceding month, which invoice shall be due and payable within thirty (30) days of receipt.

#### 5.2 Out of Pocket and Third Party Expenses

BPSC shall be reimbursed for all out-of-pocket expenses actually and properly incurred BPSC in connection with the provision of Personnel and/or Equipment.

#### 5.3 Taxes

BWP Distribution shall pay to BPSC any and all goods and services taxes, sales taxes, value-added taxes and/or any other taxes (excluding income taxes) properly eligible on the supply of Personnel and/or Equipment provided under this Agreement and on any other amounts payable hereunder.

### **ARTICLE 6 REPRESENTATIONS AND WARRANTIES**

#### 6.1 Representations and Warranties of BWP Distribution

BWP Distribution represents and warrants to BPSC as follows and acknowledges that BPSC is relying on such representations and warranties:

- (a) BWP Distribution is a corporation duly incorporated and validly existing under the laws of the Province of Ontario and has the rights, powers and privileges to execute and deliver this Agreement and to perform its obligations hereunder;
- (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate action;
- (c) this Agreement constitutes a legal, valid and binding obligation of BWP Distribution, enforceable against BWP Distribution by BPSC in accordance with its terms except as may be limited by bankruptcy, insolvency and other laws

affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction; and

## 6.2 Representations and Warranties of BPSC

BPSC represents and warrants to BWP Distribution as follows and acknowledges that BWP Distribution is relying on such representations and warranties:

- (a) BPSC is a corporation duly incorporated and validly existing under the laws of the Province of Ontario and has the rights, powers and privileges to execute and deliver this Agreement and to perform its obligations hereunder;
- (b) the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate actions; and
- (c) this Agreement constitutes a legal, valid and binding obligation of BPSC, enforceable against BPSC by BWP Distribution in accordance with its terms except as may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction.
- (d) BPSC has the necessary resources and expertise to acquire or perform the Services.

## **ARTICLE 7 INDEMNIFICATION**

### 7.1 Indemnification

- (a) BWP Distribution shall indemnify, defend and hold harmless BPSC, its officers, directors, and employees (each a "BPSC Indemnitee") from and against any and all claims, demands, suits, losses, liabilities, damages, obligations, payments, costs and expenses and accrued interest thereon (including the costs and expenses of, and accrued interest in respect of, any and all actions, suits, proceedings, assessments, judgements, awards, settlements and compromises relating thereto and reasonable lawyers' fees and reasonable disbursements in connection therewith) (each an "Indemnifiable Loss"), asserted against or suffered by any BPSC Indemnitee relating to, or in connection with, or resulting from or arising out of the provision of services of the Personnel provided hereunder.
- (b) BPSC shall be deemed to hold the provisions of Section 7.1(a) that are for the benefit of BPSC Indemnites that are not party to this Agreement in trust for such persons as third party beneficiaries under this Agreement.

### 7.2 Limit of Liability

- (a) Should BPSC be held liable by a court of law for any reason outside of the Indemnity under Section 7.1(a), BWP Distribution agrees that BPSC's liability to BWP Distribution or any third party in connection with or arising under this Agreement, including without limitation, any liability arising from any act or



omission of BPSC in the provision of the Personnel, whether arising in contract, tort, equity or otherwise, shall be limited to actions or liabilities resulting solely from the fraud or wilful misconduct of BPSC in the provision of the Personnel, and shall not exceed an amount equal to the total amount paid by BWP Distribution to BPSC under this Agreement for Personnel, over the twelve month period immediately preceding the date that the cause of action or claim giving rise to the liability first arose.

- (b) BPSC shall not be liable for any damages caused by delay in delivering or furnishing any Personnel or Equipment referred to in this Agreement.

### 7.3 Fines, Etc.

Notwithstanding anything else to the contrary in this Agreement, the Parties agree that BPSC shall not be responsible for any sanctions, fines, penalties, or similar obligations imposed on BWP Distribution, and BWP Distribution agrees to indemnify and hold harmless BPSC from any such sanctions fines, penalties or similar obligations.

## **ARTICLE 8 DEFAULT**

### 8.1 Events of Default

The occurrence of any one or more of the following events shall constitute a default (a "Default") by a Party (the "Defaulting Party") under this Agreement and shall constitute an "Event of Default" if such Default is not remedied prior to the expiry of any notice period and any cure period applicable to such Default:

- (a) if the Defaulting Party defaults in the payment of any amount due to the other Party under this Agreement and such default shall continue unremedied for sixty (60) days following notice in writing thereof to the Defaulting Party by the other Party;  
or
- (b) if the Defaulting Party fails in any material respect to perform or observe any of its other material obligations under this Agreement and such failure shall continue unremedied for a period of sixty (60) days following notice in writing thereof (giving particulars of the failure in reasonable detail) from the other Party to the Defaulting Party or such longer period as may be reasonably necessary to cure such failure (if such failure is capable of being cured), provided that the Defaulting Party:
  - (i) proceeds with all due diligence to cure or cause to be cured such failure;  
and
  - (ii) in proceeding so, can be reasonably expected to cure or cause to be cured such failure within a reasonable time frame acceptable to the other Party acting reasonably.



## **ARTICLE 9 REMEDIES**

### **9.1 Default Remedies**

- (a) Unless otherwise agreed to in writing, in the event of an Event of Default the non-defaulting Party may terminate this Agreement as it relates to the non-defaulting Party upon notice in writing and all amounts payable by the defaulting Party hereunder shall become due and payable forthwith.
- (b) The remedies in this section are expressly in lieu of any or all of the remedies, which may be available to each of BWP Distribution and BPSC in respect of or under this Agreement resulting from the furnishing, the failure to furnish or the quality of any Services.

## **ARTICLE 10 TERMINATION**

### **10.1 Termination**

This Agreement shall terminate:

- (a) in accordance with the provisions of Section 9.1; or
- (b) upon issuance of a notice of non-renewal in accordance with Section 2.1.

### **10.2 Notice of Termination**

Any termination hereof pursuant to Section 10.1 shall be by written notice of the terminating Party.

## **ARTICLE 11 GENERAL**

### **11.1 Force Majeure**

No Party shall be liable for a failure or delay in the performance of its obligations pursuant to this Agreement:

- (a) provided that such failure or delay could not have been prevented by reasonable precautions;
- (b) provided that such failure or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, work around plans or other means; and
- (c) if and to the extent such failure or delay is caused, directly or indirectly, by fire, flood, earthquake, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions, strikes, lock outs or labour disruptions or revolutions in Canada, or any other similar causes beyond the reasonable control of such Party, (each a "Force Majeure Event").

Upon the occurrence of a Force Majeure Event, the non-performing Party shall be excused from any further performance of those of its obligations pursuant to this Agreement affected by the Force Majeure Event only for so long as:

- (i) such Force Majeure Event continues; and
- (ii) such Party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

The Party delayed by a Force Majeure Event shall:

- (a) immediately notify the other Parties by telephone (to be confirmed in writing within five (5) days of the inception of such delay) of the occurrence of a Force Majeure Event; and
- (b) describe in reasonable detail the circumstances causing the Force Majeure Event.

#### 11.2 Dispute Resolution

If any dispute arising in relation to an Event of Default under Section 8.1(b) or the implementation of the cure for the Default under Section 8.1(b) cannot be resolved by negotiation between the Parties, then the dispute shall be referred to one arbitrator agreeable to and appointed by both Parties. If the Parties cannot agree on one arbitrator, the matter in dispute shall be referred to a panel of three arbitrators, one of which shall be appointed by BWP Distribution, one of which shall be appointed by BPSC and the third shall be appointed by the two arbitrators selected by BWP Distribution and BPSC. The arbitrator or arbitrators shall receive such oral and written evidence as may be required to investigate the matter in dispute and to render a decision and shall be guided by this Agreement and the intent of this Agreement. The decision of the arbitrator or arbitrators shall be provided in writing to the Parties no later than thirty (30) days after the sole arbitrator or the third arbitrator has been appointed. The decision of the arbitrator or arbitrators shall be final and binding on the Parties.

#### 11.3 Assignment

Neither Party shall, without the written consent of the other Party, which may be arbitrarily withheld in the sole discretion of a Party, assign or transfer its interest in this Agreement. This Agreement shall be binding on the Parties and their respective successors and permitted assigns. Any purported assignment in contravention of this Agreement shall be void.

#### 11.4 Notices

All notices, request, approvals, consents and other communications required or permitted under this Agreement shall be in writing and addressed as follows:

(a) if to BPSC,

P.O. Box 2140  
855 Confederation Street  
Sarnia, ON N7T 7L6

Attn: Liz Kelly  
Fax: 519-332-3878  
Email: [lkelly@bluewaterpower.com](mailto:lkelly@bluewaterpower.com)

(b) if to BWP Distribution,

P.O. Box 2140  
855 Confederation Street  
Sarnia, ON N7T 7L6

Attn: Janice McMichael-Dennis  
Fax: 519-344-6094  
Email: [jmcmichael-dennis@bluewaterpower.com](mailto:jmcmichael-dennis@bluewaterpower.com)

and shall be sent by fax and the Party sending such notice shall telephone to confirm receipt. A copy of any such notice shall also be sent on the date such notice is transmitted by fax, by email, by registered express mail or courier with the capacity to verify receipt of delivery. Either Party may change its address or fax number for notification purposes by giving the other Party notice of the new address or fax number and the date upon which it will become effective in accordance with the terms of this Agreement. A notice shall be deemed to have been received as of the next Business Day following its transmission by fax.

#### 11.5 Severability

If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable or contrary to law, then the remaining provisions of this Agreement, or the application of such provisions to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each such provision of this Agreement shall be valid and enforceable to the extent granted by law. If any clause is deemed unenforceable or contrary to law, the parties shall alter the said clause and this agreement to produce enforceability or compliance with law such that the intent of the original clause is maintained and such change or alteration may be established through the dispute resolution clause in this agreement.

#### 11.6 Waiver

No delay or omission by a Party to exercise any right or power it has under this Agreement or to object to the failure of any covenant of the other Party to be performed in a timely and complete manner, shall impair any such right or power or be construed as a waiver of any succeeding breach or any other covenant. All waivers must be in writing and signed by the Party waiving its rights.

#### 11.7 Entire Agreement

This Agreement constitutes the entire Agreement between the Parties with respect to the subject matter hereof, and there are no other representations, understandings or agreements, either oral or written, between the Parties other than as set out in this Agreement.

#### 11.8 Amendments

No amendment to, or change, waiver or discharge of, any provision of this Agreement shall be valid unless in writing and signed by authorized representatives of each Party.

#### 11.9 Governing Law

This Agreement shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein. The Parties hereby agree that the courts of the Province of Ontario shall have exclusive jurisdiction over disputes under this Agreement, and the Parties agree that jurisdiction and venue in such courts is appropriate and irrevocably attach to the jurisdiction of such courts.

#### 11.10 Survival

The terms of Article 7, Article 9 and Article 11 shall survive the expiration of this Agreement or termination of this Agreement for any reason.

#### 11.11 Third Party Beneficiaries

Each Party intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any person or entity other than the Parties.

#### 11.12 Covenant of Further Assurances

The Parties agree that, subsequent to the execution and delivery of this Agreement and without any additional consideration, the Parties shall execute and deliver or cause to be executed and delivered any further legal instruments and perform any acts, which are or may become necessary to effectuate the purposes of this Agreement and to complete the transactions contemplated under it.

#### 11.13 Independent Contractors

The Parties are independent contractors and BWP Distribution shall not be considered to be an agent of BPSC. It is further understood and agreed that this Agreement does not constitute a partnership or joint venture between the Parties.

IN WITNESS WHEREOF, this Agreement has been executed by the duly authorized signatories of the parties hereto as of the date first written above.

**BLUEWATER SERVICES  
CORPORATION**

Per:



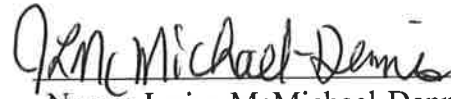
Name: Mark Delaurier

Title: Vice President

I/we have authority to bind the corporation

**BLUEWATER POWER  
DISTRIBUTION CORPORATION**

Per:



Name: Janice McMichael-Dennis

Title: CEO

I/we have authority to bind the corporation

## SCHEDULE "A"

### Fees & Charges

	SERVICES	FEES	PERIOD OF FEE
1.	Linemen	Cost	Monthly
2.	Other Staff	Cost	Monthly
3.	Equipment	Cost	Monthly

Terms & Conditions		
1	Prices	Subject to Applicable Taxes
2	Payment	Monthly invoice, Net 30 days
3	Cost	BPSC's fully allocated cost



# **ATTACHMENT 4 – 11**

## **PROCUREMENT MANUAL**



# PROCUREMENT MANUAL



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## **1.0 GENERAL**

### **1.1 Procurement Policy**

It is the policy of Bluewater Power Distribution Corporation (herein referred to as "BWP") to purchase equipment, materials, and/or services of all types in a cost effective manner with full consideration given to quality, price, delivery, reliability, engineering specifications and service. Purchases will be made with the buyer's best knowledge, with reputable, financially sound suppliers that are capable of meeting the specific needs of BWP.

### **1.2 Business Ethics**

No employee is in any way authorized to take any procurement action on behalf of BWP which would result in an inadequate or inaccurate recording and reporting of assets, liabilities or any other transaction of which would violate any applicable laws. Procurement of goods and/or services for BWP are to be carried out with highest of ethical standards.

If any information comes to the attention of any employee which indicates any departure from conduct consistent with the standards set forth in this Manual, the President and CEO is to be notified of such information for the appropriate action.

### **1.3 Conflict of Interest**

The policy of BWP regarding conflict of interest requires all employees to avoid any conflict between their own interests and the interest of BWP when dealing with suppliers, customers and all other organizations of individuals doing or seeking to do business with BWP and/or its affiliates. Further to this policy, BWP requires that competitive pricing be used, whenever practical, in the procurement of materials or equipment, and for contracted services.

While it is not practical to enumerate all situations which might be in conflict with this policy, the examples given below indicate some of the relationships which should be avoided. It could be considered a conflict with BWP's interest and violation of trust where:

- a) For any employee or any dependent member of the family of an employee to have an interest in any organization which has, or is seeking to have, business dealings with BWP where there is unjustified preferential treatment.

- b) For any employee or any dependent member of a family of the employee to buy, sell or lease any kind of property, facility or equipment to BWP.
- c) For any employee to serve as an officer or director of any other company or in any management capacity for, as a consultant to any individual, firm or any other company doing or seeking to do business with BWP.
- d) For any employee, without proper authority, to give or release to anyone, not employed by BWP any data or information of a confidential nature concerning BWP, such as that relating to a competitive bid, or to use such information for personal advantage and not in the best interest of BWP.
- e) For any employee or any dependent family member to accept commissions, a share in profits, gifts in cash, gift certificates or other payments, loans or advances (from other than established in banking or financial institutions) materials, services, repairs or improvements at no cost or unreasonably low cost, excessive or extravagant entertainment, travel, gifts of merchandise or more than nominal value from any organization seeking to do business with BWP.

#### **1.4 Gifts and Gratuities**

BWP employees are not to accept nor solicit, from any supplier or prospective supplier any money, gifts or other tangible gratuities. Only those gifts or gratuities which are used as advertisement or promotion are acceptable, and then only when they are of nominal value and include the name of the provider or company on the gift.

#### **1.5 Entertainment**

It is acceptable to meet a business associate for lunch or dinner in order to become better acquainted or to discuss a lengthy business matter. It is *not* acceptable to be entertained solely for the sake of entertainment. Also, repeated entertainment from a particular individual or company is *not* acceptable.

## **2.0 PURCHASING**

### **2.1 General**

Material, equipment, and supplies will be procured with proper consideration given to price, quality, delivery, performance and service. Such considerations will include the following parameters:

- Cost effectiveness based on life cycle assessment
- Market Price or estimated target price normally solicited through competitive bidding.
- Timeliness of availability.
- Safety and reliability of supplier.
- Quality of the product based on standards established in advance of the procurement process.

The methods employed in affecting purchases will be consistent with established procedures, policies and guidelines. Material purchases should be undertaken in the manner most advantageous to BWP having regard to price/cost, quality and other factors considered. To assure the award of business on an impartial basis, procurement actions shall secure, to the maximum extent possible, full and free competition, through the use of competitive proposals and awards.

Lowest price shall not necessarily be the determining factor. The awarded bid is the bidder who can provide the most cost effective total offering to BWP, as well as other factors including: most responsive proposal to the terms & conditions, delivery, safety, reliability of service, company/individual is financially and technically acceptable, complies with the required safety standards, quality and assurance stipulations. Awards may be split on purchase requests where it is clearly an advantage to do so.

Where exceptions to this policy are made, a full and clear statement of the reasons for the exception must be prepared and made part of the procurement/central file.

Waiver of the competitive bid requirement is provided for in such specific instances as sole source procurements and other clearly defined cases. Selection of the type of purchase orders to be used shall be based on considerations of the nature of supplies and services required or other circumstances surrounding the procurement.

## 2.2 Requisitions

The requisition is the basic document required to initiate a procurement action. This section is designed to assist in understanding the preparation and flow of requisitions. **All requisitions shall be prepared by the requisitioner/end user with all the required information and forwarded to Purchasing for processing.**

### 2.2.1 Initiation

All procurement actions will be initiated by means of a properly approved and executed purchase requisition as issued by an authorized employee (Requisitioner"). BWP has developed a Requisition on Demand (ROD) program to assist in the process, which shall be used on all purchases.

**Note: It is the responsibility of the Requisitioner/End User to ensure requisition is completed properly ensuring it is clear what is required; when it is required; where it is to be charged, etc.**

### 2.2.2 Approvals

Requisitions shall be filed by the Requisitioner and all requisitions shall be authorized as follows;

Level 1	\$0 - \$24,999.99	- Manager/Supervisor with budget responsibility
Level 2	\$25,000+	- CEO

Purchases of coded stock are not subject to authorized dollar limits set out above. Purchasing has the authority to sign requisitions and order items as required, to maintain appropriate stock levels, provided all purchases are made in accordance with this Procurement Manual.

Routine purchases from established providers, or national retailers (such as Canadian Tire, Home Depot, etc.) while providing services in the field shall be permitted by any employee provided approval is obtained after-the-fact in accordance with the required level of approval set out above.

Regularly occurring purchases for services requiring specialized expertise or particular knowledge of the BWP systems may be acquired from a list of approved vendors. Approved vendors shall have demonstrated expertise, exemplary Health and Safety, and a history of providing effective and efficient services in prior years. Performance shall be monitored and, provided cost increases are limited to inflation and service continues to be satisfactory, no further purchasing processes shall be required of the department acquiring such services.

All other purchases shall commence with the submission of a Requisition as described below and, then, the purchasing process shall be conducted in accordance with one of the following approved methods defined in the Procurement Manual:

- (1) Request for Information (RFI) as set out in Section 2.3
- (2) Request for Quote (RFQ) as set out in Section 2.4
- (3) Request for Proposal (RFP) as set out in Section 2.5
- (4) Single-Source as set out in Section 2.6

### **2.2.3 Requisition – Information required**

All requisitions forwarded to Purchasing should define as accurately as possible the needs of the End User.

The following information is required on the requisition;

- a full description of the item
- quantity
- unit of measure
- cost assignments – cost center, order number, GL account
- any pertinent drawings and/or specifications (attach)
- any applicable standards (attach)
- end user or department
- date required
- budgeted amount or expected dollar value
- potential vendor information
- copy of quote (if applicable)

The requisition/ROD shall be provided to Purchasing promptly to allow time for review, bidding, bid evaluation, approvals, and issuance of procurements process to be followed by purchase order.

Requisitions should specify tagging instructions, i.e.: equipment markings identification numbers, work order number.

Requisitions requiring third party rentals should show estimated duration of rental.

If items are specified for brand names, the requisition should clearly state “Equal Acceptable” or “No Substitution Acceptable”.

All requisitions/ROD will include Account/Work Order/Budget numbers that the requisitioner wishes applied to the Purchase order. It will also include the appropriate approvals.

#### **2.2.4 Corrective Action**

Corrective action may be required following the screening and review. It shall be the responsibility of Purchasing to check with the requisitioner to ensure that all pertinent data is forwarded for incorporation in the requisition. If, for example, Purchasing discovers that delivery dates are unrealistic, it shall be the responsibility of Purchasing to coordinate with the requisitioner to ensure that:

- Delivery dates are changed to coincide with availability
- Alternate purchase actions are taken to improve delivery
- Project schedules are consulted to determine any negative affects
- Approvals obtained accordingly.

#### **2.3 Request for Information (RFI)**

Unlike a Request for Quotation or Request for Proposal, the Request for Information is strictly for information purposes, which could be used in budgetary planning or where estimated cost figures are required. It should be clearly stated to the vendor that this is for information purposes only, and will not be binding.

##### **2.3.1 Request for Quotations (RFQ)**

A Request for Quotation is a pricing request that is required where the scope and specifications are clearly identified, and the purchase does not meet the sole sourcing criteria. Where the scope and specifications are less well defined or they are open-ended such that alternatives might be suggested by potential bidders, then the Request for Proposal process shall be followed.

The following financial criteria shall be used by Purchasing to guide the RFQ process:

- |    |                     |   |                                                                                                                                         |
|----|---------------------|---|-----------------------------------------------------------------------------------------------------------------------------------------|
| 1. | From \$0 - \$999    | - | informal telephone/fax/email from single provider                                                                                       |
| 2. | \$1,000 - \$9,999   | - | one or more informal telephone/fax/email quotes with the low bid to be confirmed in writing by fax/email.                               |
| 3. | \$10,000 - \$99,999 | - | a minimum of two competitive quotes in writing, initiated and managed by the Requisitioner, in compliance with this Procurement Manual. |



4. \$100,000 and over - a formal Request for Quotes initiated and managed by Purchasing strictly in accordance with this Procurement Manual.

Quotations shall be reviewed by Purchasing and the requisitioner, with Purchasing acting as the representative of BWP with the bidder. All processes are to be managed in accordance with the General Rules set out in Section 2.7.

## **2.4 Request for Proposal (RFP)**

A Request for Quotation is a pricing request that is required where the scope and specifications are not well-defined enough to constitute a RFQ or where they are open-ended such that alternatives might be suggested by potential bidders.

The following financial criteria shall be used by Purchasing to guide the RFP process:

1. \$0 - \$9,999 - one or more informal telephone/fax/email proposals with the low bid to be confirmed in writing by fax/email.
2. \$10,000 - \$99,999 - a minimum of two competitive proposals in writing, initiated and managed by the Requisitioner, largely in compliance with this Procurement Manual.
3. \$100,000 and over - a formal Request for Proposals initiated and managed by Purchasing strictly in accordance with this Procurement Manual.

Quotations shall be reviewed by Purchasing and the requisitioner, with Purchasing acting as the representative of BWP with the bidder. All processes are to be managed in accordance with the General Rules set out in Section 2.7.

### **2.4.1 Single Source Solicitations**

Orders may be placed by solicitation from a single source under the following conditions:

- When failure to receive the material or service by the required date will prolong an unsafe condition; adversely affect operation; cause a work stoppage; hardship to customers or additional financial costs.

- Sole source may be used for purchases where the anticipated price will be under \$10,000 and the requisition/ROD provides a written explanation as to why sole sourcing is to occur.
- Sole source may only be used for purchases where the anticipated price exceeds \$10,000 when quote/proposal from sole source vendor is supplied in writing, and one or more of the following exist:
  - ❖ Where quantity of work is unknown, and a benchmarking exercise is undertaken on price and the work is continuously monitored.
  - ❖ The material is an item of required design or is a proprietary or patented item available only from the patent holder or license.
  - ❖ A reasonable attempt at competition has been unsuccessful.

## **2.5 General Rules Applicable to all Purchasing**

### **2.5.1 Authority and Exceptions**

The Purchasing Manager shall be the sole authority in (a) awarding contracts and accepting proposals resulting from the opening of sealed proposals and (b) reviewing/accepting/rejecting recommendations during formal requisition processes.

The Purchasing Manager shall be responsible for ensuring compliance with this Procurement Manual, and all departments shall be required to accept the direction of Purchasing.

Generally speaking, the financial limitations set out above shall govern when a formal RFP or RFQ to be managed by Purchasing shall be undertaken. The Purchasing Manager shall have authority to vary such requirements having regard to:

- Emergency spending requirements
- Market conditions and availability of supply
- The specialized nature of equipment or services
- Natural continuation of a project beyond the original scope
- Other circumstances as justified in writing through the requisition process

### **2.5.2 Process Requirements**

Purchasing shall ensure, in coordination with the requisitioner, that the process followed allows for a fair and open process. The purchasing

process shall provide potential bidders with a clear understanding of all requirements as follows:

**Process:**

- Clear instructions as to the form and completeness of the proposal
- Clear instructions as to process for submission
- Instructions concerning unit, itemized, total, alternative and separate pricing, any approvals or standards to be met
- Right to access for inspection
- Evaluation process and expected award date

**Scope of Work**

- Full description and quality of items/services to be included in scope of work (obtained from Requisitioner, Originator/Technical person)

**Proposal Documents**

- Instruction to bidders
- Proposal forms
- Scope of Work
- Terms & Conditions
- Supplementary Conditions (if applicable)
- Specifications
- Drawings, design detail and schedules
- List of required submissions from bidder (i.e.: W.S.I.B./Insurance Certificate(s), proof of EUSA membership, other qualifications)
- Addenda (if necessary, issued prior to bid closing)

**Terms and Conditions**

- Terms and Conditions must be clearly specified, including Standard, Supplementary and Special
- Freight terms, generally FOB Delivered
- Payment terms, generally Net 30 days
- Permitting and Inspection requirements (if applicable)

**Proposal Security**

Construction projects in excess of \$100,000, **if requested**, shall be accompanied by a deposit in the form of a certified cheque, letter of credit

or bond acceptable to BWP equal to ten percent (10% of the total value of the proposal or quote). The deposit of the successful bidder will be retained until the contract has been signed and the Performance Bond or Security deposit has been furnished to the satisfaction of BWP.

### **Performance Security**

All successful bidders for construction contracts in excess of \$100,000 **may be required** to provide either (a) a Performance Bond from a licensed Canadian Surety Company in an amount equal to one-hundred percent (100%) of the total proposal, or (b) a Security deposit in the form of cash or irrevocable letter of credit acceptable to BWP, in the amount equal to one-hundred percent (100%) of the total tender. This Security will be deemed necessary and signed off by the Purchasing Agent, VP and/or CEO. The criteria considered will be by past performance, if contracted before, the company's financial position or reputation. If required, the above securities shall be maintained in good standing until the fulfilment of the contract, but may be decreased, at the Purchasing Manager's discretion, at a rate equal to the contract payment schedule.

Having regard to security, there is heightened importance to define "performance" or "default" in the contract. In defining these terms, consideration should be given to:

- Adherence to the specifications
- Measurable quality standards
- Operating parameters
- Timetables
- Notice provisions and timing for remedial work

Furthermore, it should be clearly stated who would judge the performance. It could be the field supervisor, the construction foreman, the engineer, or all of the above.

## **2.5.3 Requirements for Awarding Contract**

### **Single Formal Proposal**

When one and only one proposal is received, it should be considered acceptable. If BWP is unable or unwilling to award the contract, the proposal should be returned unopened to the bidder. If the proposal is opened and it meets all the requirements of the proposal documents and BWP's budget constraints the proposal should be awarded. Once a proposal has been opened, re-bidding should be avoided.

## **Late Proposals**

Proposals received after the closing time should be returned unopened, labelled “Late Proposal – Unopened”.

## **Mistaken Proposals**

If a bidder informs the Utility, reasonably promptly after the bid closing and before the utility communicates acceptance of the proposal, that a serious and demonstrable mistake has been made and requests to withdraw the proposal, the bidder should be allowed to do so without penalty.

## **Insufficient Proposal Security**

If a bidder submits insufficient proposal security as specified in the proposal documents, the bid shall be rejected.

## **Arithmetic Mistakes**

In Unit Price Contracts, if there are arithmetic mistakes in extending or adding unit prices on the proposal form, the *unit prices shall prevail* and the extensions and contract price shall be adjusted accordingly.

### **2.5.4 Eligibility of Bidders**

Proposals are to be solicited only from manufacturers, exclusive representative, distributors. An exclusive representative is that person or firm who has the exclusive rights of distribution of the materials, supplies, articles, or services required. A “distributor” is a person or firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment required are bought, kept in stock, serviced, and sold to the general public in the course of business.

The benefit from the use of local distributors cannot be overlooked. Their importance in a procurement program contains many intangibles such as support services and information.

## **Supplier Relationships**

It is the responsibility of Purchasing to maintain good and open business relationships with all supplier/contacts. All formal contact with suppliers shall be undertaken by Purchasing, and all other departments shall accept direction from Purchasing in regard to any matter reasonably believed to affect the relationship of BWP and supplier.

## **2.6 Review of Proposals**

Proposals are to be directed to Purchasing. Although technical questions by the bidder may be directed to the requisitioner, contact between bidders and requisitioner's should be kept to a minimum, and Purchasing will be copied on any correspondence. All vendor contacts during the proposal process must be through Purchasing.

During the proposal process, a vendor meeting may be required to clarify proposal documents and to allow site inspection. In such a case, Purchasing will arrange the meeting with the appropriate departments, taking minutes of the meeting and issue any necessary addenda as a result of this meeting.

Award will be based on criteria determined in advance and as set out in the RFP or RFQ documents. A decision will be made by Purchasing (with Requisitioner's input) as to which supplier can most efficiently/effectively, at a fair price, provide the goods and/or services to BWP. Lowest unit or total cost may not always be the awarded supplier.

**All pricing information should be treated as confidential by all parties.**

### **Alterations to Proposals**

Alterations to quotes/proposals by letter or fax are acceptable if received before the scheduled proposal closing date.

### **Rejection of Proposals**

If the initial quotes/proposal response does not provide acceptable prices/terms, or material, or delivery schedule, all or partial submissions may be rejected and new submissions requested. It is important to remember that schedule requirements may dictate that quotes/proposals not be rejected or that alternate methods or award be made, such as through clarification and negotiation of details.

### **Change in Scope**

Bidders should be advised via formal addendum when the specifications or conditions of bidding are revised. Once the quotes/proposals are in, should it be found that new conditions prevail; the Buyer either may negotiate a price properly reflecting these changed conditions or may reopen the quote/proposal process. If changes occur prior to the receipt of the quotes/proposals, all bidders should be expeditiously advised. If

bidders require more time because of the change, it should be granted in writing showing the new closing date, only if the schedule will allow it.

### **Acceptance of Terms and Conditions**

Where it is not clearly indicated that the bidder accepts the terms and conditions stated in the Request for Quote/Proposal, bidder shall be contacted to determine whether or not he accepts the terms and conditions.

The Terms and Conditions of purchase cannot be taken lightly. Full accord between Buyer and Seller must be finalized prior to order of issuance. If the Seller makes a counter-proposal that includes deletions/additions/or changes to BWP's Terms and Conditions, consultation with CEO and/or Legal Council should be undertaken as appropriate.

### **Escalation**

Firm prices should always be requested, negotiated and agreed upon. This is generally not a problem for a one year or less purchase order contract. However, from an efficiency and in-house cost perspective, Purchasing may wish to engage in a long term Blanket Order for multiple years. In this instance, all increases must be scrutinized and negotiated and be in accordance with published inflationary index or negotiated in advance based on reasonable forecasts.

### **Significant Projects and Contracts**

A pre-award meeting with the selected supplier should be held in connection with major complex procurements. The prime objective is to achieve maximum assurance that Scope and Terms are understood and that the work will be performed smoothly and satisfactorily. In no event should a pre-award meeting be used for changing pricing unless warranted by corresponding change in specifications, drawings, quantities, schedules, etc. The pre-award meeting should be conducted by the Purchasing Manager and the requisitioner. In order to fully accomplish the objectives stated above, the meeting should be attended by personnel qualified to answer questions relating to matters that are expected to be discussed.

It is important that the persons attending clearly understand that the purpose of the meeting is not to modify the requirements, the contractual agreement or the terms and conditions previously arrived at through the proposal process and/or any subsequent negotiations, but rather to afford an opportunity to explain, to the extent considered necessary, BWP's

policies and requirements with respect to the scope and administration of work.

Purchasing will chair the meeting and minute the discussions and, as necessary, issue formal addenda to bidders covering clarifications and changes are specified in the meeting.

## **2.7 Approvals, Awards and Preparation of the Purchase Order**

Prior to purchase it may be necessary to obtain approval from the President and CEO if total estimated expenditure will exceed the spending limit authorization shown on the requisition. If so, a recommendation must be developed that incorporates a technical recommendation from the requisitioner and a recommendation from Purchasing. This recommendation should be prepared in a Bid Summary.

BWP should always reserve the right to accept any proposal and not necessarily the lowest proposal and to reject any or all proposals. BWP should always reserve the right to award in whole or in part, by item, or class.

## **2.8 Purchase Order**

Purchasing shall email or verbally place the order with the successful Bidder, reviewing all criteria such as quantities, description, price, shipping and payment, terms, carrier, tagging, delivery dates, etc. This will ensure a quicker, more accurate response from the Bidder. A confirming order should be issued immediately thereafter.

The purchase order as a minimum must include the following:

- Bidder's legal name and address
- Purchase Order number
- Date
- Terms of payment
- Shipping terms and FOB point
- Complete description of items purchased, quantity, unit and total prices.
- Firm Price Policy (escalation clause if prices not firm)
- Tax status
- Shipping instructions
- Tagging/Marketing instructions
- Customs instructions (if applicable)
- Schedule of engineering/fabrication (if applicable)
- BWP's Terms and Conditions



- If the original order was placed verbally, it should state “*Verbal Confirmation between your \_ \_ \_ \_ \_ and our \_ \_ \_ \_ \_ on date.*”
- Reference any quotation numbers and/or dates

## **2.9 Purchase Order Number**

The purchase order number will be generated in SAP when the document is saved, at which time the number will be provided to the vendor.

## **2.10 Approval of Purchase Orders**

All purchase orders shall be signed or issued on behalf of BWP by Purchasing.

Purchase Orders may not be required for procurement of professional services, common carrier, transportation at tariff rates, postage, telephone metered utilities, subscriptions, credit card purchases, etc. It is usually not customary to cover the aforementioned requirements with a purchase order.

Purchase Orders should be issued before or concurrent with any purchase or commitment, except in emergencies, in which case a confirming order will be written as soon as possible.

## **2.11 Split Awards**

Split Awards should be made when advantageous to do so. All RFQ/RFP's should have a provision which states BWP's authority to split awards if deemed desirable. Where not already specified in the RFW/RFP documents, Purchasing should be sure to check with the bidders prior to order award to ensure that a spit order will be acceptable

## **2.12 Special Consideration Purchase Orders**

### *Suppliers Financial Ability*

Where it is determined that financial ability to perform work is critical, prior to issuing an RFQ/RFP, all bidders should be pre-qualified financially, technically and to quality assurance level.

### *Insurance Requirements*

Anyone providing a service (outside labour) for BWP must have insurance in the following amounts and in form satisfactory to BWP, insuring himself against claim and all liability for property damage and public liability.

General Liability	\$2,000,000 per occurrence
Automotive Liability	\$2,000,000 third party liability and

\$2,000,000 third party for non-ownership liability.

**Note: Requirement for Live Line Clearing is \$5,000,000.**

*Evidence of Insurance*

Certificates of Insurance for Bidder and/or any proposal sub contractor(s) along with a clearance certification from the Workman's Compensation Board are required prior to commencement of work. *Note:* Certificates are filed in Purchasing.

*Performance Bond Labour and Material Payment Bond*

A Performance and/or Labour and Material Payment Bond *may be required* where risk to BWP is evident. Determination of risk will be made in cooperation with the Purchasing Manager.

## **2.13 Types of Purchase Orders**

In designing RFQ and RFP, consideration should be given to the most beneficial means of procuring services. The following types of purchase orders may result from the procurement process and, therefore, can help guide the development of the RFQ or RFP

### **2.13.1 Fixed-Price Indefinite Quantity Purchase Order**

Requirements for supplies which are requisitioned on a repetitive basis may, in some cases, be fulfilled most advantageously with the use of a fixed-price indefinite quantity purchase order. While this type of order clearly offers the advantage of simplifying purchases and reducing transaction costs, it should be used when all of the following conditions are present:

- Required items can be grouped properly
- Estimates of requirements are reasonable
- Subject to the fixed price procurements
- A stable market is anticipated
- Anticipated quantities of individual orders are not sufficient to obtain favourable prices by individual orders

All such orders must state a dollar limitation of the commitment and termination date. The use of these types of contracts is beneficial and should be sought out where reasonable.

### **2.13.2 Blanket Orders**

Blanket Orders are a version of Purchase order utilizing the SAP option of setting dollar values or date limits.

Blanket orders are useful and offer cost saving benefits for the purchase of consumables, repetitive items, and miscellaneous supplies picked up or ordered on a frequent basis. Blanket Orders can also be used successfully to cover ongoing services. Normally blanket orders are renewed annually; however, longer duration contracts may have price advantages and save on precious in-house resources.

Blanket orders can reduce inventory costs by supplying materials/equipment only as they are required "Just In Time". BWP needs only to maintain minimum stock.

When possible, Blanket Orders should state the dollar limitation of the commitments and the termination date of the order. The names of the persons who are authorized to obtain such material should be specified and only Purchasing should be allowed to make releases against the order.

## **2.14 Consideration for Purchase Orders and Contacts**

### **2.14.1 Time and Material (Labour/Material/Equipment)**

A Time and Material Contract is recommended where the scope of work is not clearly defined or services are required on a per-unit of time basis. Contract costs are then established on progress billings based on previously bid hourly, daily or crew "charge out rates". All invoices must be substantiated by copies of time/material sheets duly approved by BWP Supervisor.

### **2.14.2 Fuelled, Maintained and Operated Equipment**

Operators must be covered by Workman's Compensation and the Lessor must present certification of insurance satisfactory to lessee prior to equipment being placed into operation.

Daily time sheets must be approved by the BWP Site Contact and copies of same must accompany invoices. The labour requirements clause must be part of the order.

### **2.14.3 Rental With Option to Purchase**

If equipment is required for a substantial period of time, it would be good business practice to negotiate a rental with option to purchase prior to rental.

### **2.14.4 Leases**

Rentals and Leases are often thought of synonymous, but there are differences which have financial and tax ramifications.

Simply stated, leasing is a form of financing whereby the lessee (user) utilizes the money of the lessor to obtain equipment.

Lease agreements should be reviewed by the President and CEO.

## **2.15 Changes to Purchase Orders**

BWP General Terms and Conditions govern the process of change orders, but this section is provided as clarification for those performing purchasing functions and managing suppliers.

### **2.15.1 Processing Change**

Change Orders are initiated to supplement purchase orders which require amendment to provide for additions to, or deletions from, original quantities of material and equipment or scope of work, changes in design, revisions to terms and conditions and shipping instructions, and completion of delivery dates.

Processing of Change Orders conforms to the procedure for processing purchase orders. A duly approved Change Order/Requisition is required prior to executing a Change Order.

### **2.15.2 Initiated by Requisitioner**

Change to Purchase Orders involving changes in engineering design and specifications, quantity of items to be furnished, scope of work to be performed, price of goods or work, or scheduling of work are initiated by the engineer/requisitioner who will complete a Change Order and forward a copy to Purchasing for processing.

## **2.16 Purchase Order Termination**

Purchase Orders are terminated when it is in the best interest of BWP to do so. Appropriate clauses must be included in all purchases orders to establish a basis of termination and/or refer to General Terms and Conditions.

Approval for termination must be obtained from the level of authority which approved the Purchase Order initially.

### **2.16.1 Restocking Charges**

In many cases, it is possible to terminate for convenience or cancel an order at no cost when the items involved are standard to the vendor's production line and the vendor has and immediate market elsewhere for them. The first goal will always be to attempt to terminate orders on this basis.

The agreement to no-cost termination will be reflected by a Change Order to the Purchase Order indicating that such an agreement has been reached.

In many cases, a termination for convenience can be arranged by agreement of the vendor to accept back into stock the items being cancelled in exchange for a reasonable restocking charge to cover the extra expense to which the vendor has been put by this action. All costs for restocking require approval by the necessary level.

## **3.0 ADDITIONAL PROCUREMENT FUNCTIONS**

### **3.1 Procurement Card Purchases**

Procurements cards are authorized and controlled by VP of Finance.

The Purchasing Manager holds a procurement card with a limit of \$10,000 for purchases. The purpose of the Visa Purchasing Card is to provide an efficient, cost effective method of purchasing and processing small dollar, or "one off" type purchases. These purchases will typically be for online ordering, or from a vendor with whom we do not have a charge account.

Purchases by staff in the field require the appropriate level of approval after-the-fact. Such approval is typically in the form of monthly Visa Expense Report, on which the description of the item, as well as account assignments is listed for approval.

Items purchased by Purchasing still require an appropriately filled out requisition with all pertinent information and approvals.

### **3.2 Fleet Gas Cards**

Fleet Gas Cards are issued by Purchasing for BWP vehicles and company use only. Any stolen, lost or malfunctioning cards will be reported to Purchasing and a replacement will be issued.

### **3.3 Invoicing Approvals**

All invoices are received by requisitioner or BWP's Accounts Payable. If received by Accounts Payable, the AP clerk will then forward the invoice to the requisitioner or Supervisor for approval to pay.

If there is any discrepancy in the dollar amount that cannot be resolved, a change order will be filled out by the requisitioner and given to Purchasing to make any necessary changes in SAP.

### **3.4 ESA Compliance**

In order to comply with the Electrical Distribution Safety Regulation 22/04 Section 6, requires all electrical equipment that is part of the distribution system to be approved by:

- a) meeting any of the standards for approval of equipment set out in Rule 2-024 of the Electrical Safety Code; or
- b) compliant with a code or standard under a rule of the distributor that provides an assurance of safety of the equipment that is equivalent of the assurance of safety provided by option (a).

Design Services maintains the Equipment Approval Sheets, including manufacturer part number, BWP Stock number and the standards/test reports attached to the item. The approved equipment specifications will be forwarded to the supplier. It will be noted that the supplier is to advise of any changes to the item/standards for approval by BWP.

When these items are received, they are inspected and deemed they are as ordered; the packing slip will be signed by stockroom staff. If any items are not as ordered, the vendor will be contacted and arrangements made for replacement/return of the goods.