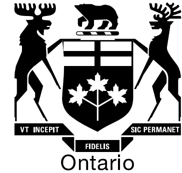
Ontario Energy Board | **Commission de l'énergie de l'Ontario**



EB-2007-0744

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15 (Schedule B)

AND IN THE MATTER OF an application by Great Lakes Power Limited for an Order or Orders approving just and reasonable rates and other service charges for the distribution of electricity, effective September 1, 2007.

BEFORE: Paul Sommerville
Presiding Member

Bill Rupert
Member

Cathy Spoel
Member

DECISION AND ORDER

THE APPLICATION

Great Lakes Power Limited ("GLPL", the "Applicant" or the "Company") filed an application under section 78 of the *Ontario Energy Board Act*, *1998*, S.O. 1998, c. 15 (Schedule B) with the Ontario Energy Board (the "Board"), received on August 31, 2007, seeking approval for changes to the rates that GLPL charges for electricity distribution, to be made effective September 1, 2007. In addition, GLPL requested the Board to make the current distribution rates interim as of September 1, 2007 and to authorize the establishment of a deferral account to record revenue requirement deficiencies incurred from September 1, 2007 until new distribution rates are implemented.

GLPL initially requested a revenue requirement of $17,576,700 to be recovered in new rates effective September 1, 2007. The application indicated that the existing rates would produce a revenue deficiency of $8,089,200 for 2007. The Company subsequently revised the requested revenue requirement to $17,513,100 as detailed in the Table 1 below. The resulting impact of the Company's requested rate application was estimated at +1.6% on the electricity bill for a residential customer consuming 1,000 kWh per month. This rather modest effect is attributable in large part to the role of the RRRP. This does not include the effect of the Company's proposals with respect to the disposal of variance and deferral accounts, which would add an additional 0.9%.

The Board assigned the application file number EB-2007-0744 and issued a Notice of Application and Hearing dated October 18, 2007. The Board approved four interventions: the Vulnerable Energy Consumers Coalition ("VECC"), the Algoma Coalition, Hydro One Networks Inc. and Dubreuil Forest Products Limited ("Dubreuil"). All intervenors and Board staff were active in the proceeding.

As noted above, as part of its application GLPL requested that the Board make its current rates interim commencing on September 1, 2007. In its decision on this request the Board found that GLPL's current rates should be made interim commencing on January 1, 2008.

On January 11, 2008, the Applicant filed a Notice of Motion for a review of the Board's Decision and Order on Interim Rates (EB-2007-0744) dated December 20, 2007, and for the Board to calculate the average of any rate adjustment for other distributors in accordance with O. Reg. 442/01. The Board assigned file number EB-2008-0016 for the Motion to Review. In Procedural Order No. 2 (EB-2007-0744, EB-2008-0016) dated January 29, 2008, the Board stated that it would consider the calculation of the adjustment to rates for other distributors when it considered the Applicant's request for just and reasonable rates. On March 20, 2008, the Board issued a Decision on the Motion To Review (EB-2008-0016) and declared GLPL's current rates interim as of September 1, 2007.

A Technical Conference was held on April 4, 2008 and an Oral Hearing on May 9, 2008. GLPL's Reply Submissions were filed on June 2, 2008.

The full record is available at the Board's offices. In this decision, the record is summarized to the extent necessary to provide context to the Board's findings.

BACKGROUND

GLPL presents a unique challenge for the Board. In reviewing the record for this case and examining the history of this applicant before the Board it has become clear that conventional ratemaking practice cannot address the issues presented by this applicant.

Conventional ratemaking cannot result in a rate that will cover the Company's costs, provide for a reasonable return on investment, while being reasonable from a ratepayer's point of view.

This circumstance arises directly out of the characteristics of the Applicant's service area. The Applicant's service area is more than twice the area of the greater Toronto area. It has less than 12,000 customers and has the lowest customer/kilometer ratio in Ontario with only 6.7 customers per kilometer on average. 99.9% of its service area is rugged and sparsely populated wilderness. Its service area is characterized by long runs of distribution wire between customers.

This is a high cost, low revenue service area.

For a number of years Great Lakes Power Limited operated an integrated generation, transmission and distribution company. It is apparent that when these businesses were operated together, the distribution business was significantly subsidized by the other relatively more lucrative undertakings. When the Company reorganized its operations to meet market restructuring rules, so as to operate the businesses separately, the inability of the distribution business to be compensatory came into high relief.

It is clear that the provincial government has come to the same conclusion.

The adoption of Regulation 445/07 (the "Reclassification Regulation")[1] and the amendment of Regulation 442/01 (the "RRRP Regulation")[2] were an effective response to the circumstances presented by Great Lakes Power Limited. In essence, these regulatory instruments extend rural and remote rate protection to virtually all of the

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[1] Ontario Regulation 445/07, *Reclassifying Certain Classes of Consumers as Residential-Rate Class Customers: Section 78 of the Act*, filed August 2, 2007.

[2] Ontario Regulation 442/01, *Rural or Remote Electricity Rate Protection*, filed November 30, 2001, as amended by Ontario Regulation 335/07, filed July 5, 2007.

Company's customers, by deeming them to be residential customers for the purposes of access to significant additional funding through the rural and remote rate protection mechanism. By this device, the significant gap between what the Company needs by way of revenue requirement and a reasonable prospect of recovery through rates can be bridged. These Regulations are attached as Appendix A of this decision.

This entire application has been affected by these unique circumstances. The Board has reviewed the Applicant's revenue requirement conventionally. That is, the Board has established in the course of this decision the basis for a revenue requirement that is supported by the evidence filed by the Applicant. However, the Board's consideration of every aspect of the recovery of the revenue requirement through rates has been affected by these regulations, either through their specific requirements or their intent.

THE ISSUES

Table 1 summarizes the elements of GLPL's proposed revenue requirement.

Table 1: Proposed Revenue Requirement

2007 Costs per Revised Application	*000s*
OM&A expenses	$ 7,996
Depreciation and amortization	3,623
Property taxes	164
Ontario capital tax	124
Income tax	1,573
Cost of debt	1,810
Return on equity	2,606
Less: Other revenue	(383)
Base revenue requirement	**17,513**
Add: Transformer credit	34
Less: RRRP	(8,868)
Revenue to be collected in rates	**$ 8,680**

Source: Derived from Table 10-1 in GLPL's Argument-In-Chief

In addition to the proposed revenue requirement set out in Table 1, GLPL applied for approval to clear the balances in several deferral and variance accounts. One of those

accounts, Account 1574, Deferred Rate Impact, Sub Account Rate Mitigation, includes approximately $14.9 million that has been accumulated since 2002. The Board's findings on that account affect the Board's findings on other aspects of GLPL's application. Therefore, this decision first addresses that issue. The balance of the decision deals with the following issues:

- OM&A expenses
- Cost of capital
- Rate base and capital expenditures
- Load forecasting
- Line losses
- Change in customer classifications
- 2007 Test Year Income Tax
- Deferral and variance accounts in addition to account 1574.

ACCOUNT 1574 – DEFERRED RATE IMPACT

As a result of separating the distribution business from its other businesses in 2002, GLPL began using Deferral Account 1574 to accumulate distribution costs that it believed were not being recovered through the rates then in effect. The Company has continued to use this account until the present and now seeks approval to clear the balance in that account, which has been identified as approximately $15.2 million.

Account 1574 has two sub-accounts; namely Sub Account Boniferro and Sub Account Rate Mitigation

Account 1574 Deferred Rate Impact – Sub Account Boniferro

GLPL is requesting clearance of balances in this sub-account (approximately $0.3 million) related to the revenue deficiency that was a consequence of the Board's finding in RP-2005-0031/EB-2005-0013. The company proposed that the amounts recovered in this account be recovered in a separate rate rider, distinct from other regulatory accounts.

No parties made any submissions on this matter.

Board Findings

The Board approves disposal of the balance in this sub account as of the effective date of this decision. Since the company will have to calculate lost revenue for the period from the effective date to the implementation date, there will be no deferred revenue to accrue to the Boniferro sub-account after the effective date. Also, clearance of this sub-account is subject to the Implementation of Clearance of Deferral and Variance Accounts section in this decision. This sub-account shall be closed as of the effective date of this decision.

Account 1574 Deferred Rate Impact – Sub Account Rate Mitigation

GLPL is seeking Board approval to recover the August 31, 2007 balance in this sub account of $14,890,315 over approximately 11 years.[3]

From May 1, 2002 to August 31, 2007, GLPL deferred approximately $2.8 million per year in Account 1574, being the pre-tax return on equity and the grossed-up tax proxy that GLPL contends that it has foregone as a result of its voluntary 2002 rate mitigation plan. The account also includes carrying charges.

Most of the evidence and arguments on this issue dealt with the question of whether the Board ever approved the accumulation of these amounts in a deferral account for future recovery from ratepayers.

Background

GLPL began to use Account 1574 in 2002, when its distribution rates first became subject to regulation by the Board. Before May 2002, GLPL's distribution business was part of an integrated generation, transmission and distribution utility that was not regulated by the Board. In March 2002, GLPL applied for Board approval of distribution rates, effective May 1, 2002. That application included a 2002 revenue requirement of $12.7 million. GLPL did not propose, however, that 2002 distribution rates be set to recover that amount. Instead, GLPL proposed a rate mitigation plan that would result in the 2002 rates being set to recover only $9.8 million. GLPL proposed that the un-

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[3] GLPL's pre-filed evidence showed a balance in Account 1574 of $15,635,952. The Company subsequently reduced the amounts of income taxes and carrying charges included in the account.

recovered revenue requirement in 2002 (and also 2003) would be deferred and recovered in rates over four years beginning in 2005.

On May 13, 2002, the Board approved, on an interim basis, the rates proposed by GLPL.[4] That is, the Board approved rates which were calculated to recover $9.8 million annually. The Decision and Order noted that "GLPL sought to have the new rate schedules take effect upon the date that subsection 26 (1) of the *Electricity Act, 1998* comes into force [May 1, 2002]." The Decision and Order also notes that the "the Board finds it expedient" to approve the rate schedules on an interim basis effective May 1, 2002.

The Board never subsequently considered GLPL's 2002 application.

In December 2002, the Ontario Legislature passed Bill 210, which in addition to other matters, introduced a new section 79.3 of the *Ontario Energy Board Act, 1998.* Subsection 2 of that section stated "If an interim order under section 78 was in effect on November 11, 2002, the order shall be deemed to be a final order and applies to electricity used on or after December 1, 2002." As a result, the Board's interim order on GLPL's 2002 rates was, by operation of the statutory amendment, made a final order. The new section 79.3 also prohibited the Board from adjusting the rates charged by distributors unless approval for such an adjustment was received from the Minister of Energy. That prohibition was lifted on January 1, 2005.

In 2003, the Ontario government extended the Rural or Remote Electricity Rate Protection (RRRP) plan to GLPL. The Minister of Energy directed the Board to reduce distribution rates for residential and other customers to recognize the availability of RRRP. The Minister's June 27, 2003 letter to the Board indicated that the new rates were "based on a total revenue requirement, including Rural and Remote Rate Protection of $9.8 million. This reflects the revenue requirement on which current rates are based." The proposed rate schedule attached to the Minister's letter showed Revenue to be Recovered in Rates of $7,492,989, being Total Revenue Requirement of $9,826,797 less Rural and Remote Rate Protection of $2,333,808.

The Board approved the new rates in July 2003, with an effective date of May 1, 2002.[5]

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[4] EB-2002-0249/EB-2002-0277/RP-2002-0109, Interim Decision and Order, May 13, 2002.

[5] RP-2003-0149, Rate Order, July 11, 2003.

In January 2004, GLPL applied for recovery of the first instalment (25%) of the December 31, 2002 balances of certain regulatory asset accounts. It should be noted that the Regulatory Assets Account was intended to capture costs incurred by distributors in readying themselves for market opening. Such costs often included computer system upgrades, and other like disbursements associated with the transition to the new market. It was not intended to capture the effects of rate mitigation efforts. In its filing guidelines for this process, the Board noted that distributors would not be required to provide evidence justifying the balances. In any event, the balance in Account 1574 was not included in GLPL's regulatory asset application[6].

In its application for recovery of the second instalment of regulatory asset balances, GLPL included the balance in Account 1574. The Board approved, on an interim basis, recovery of 80% of the amount sought by GLPL.[7] As with the 2004 proceedings on regulatory assets, distributors were not required to provide evidence justifying regulatory asset amounts.

Submissions of the parties

GLPL's principal argument in support of recovery of Account 1574 is that, by approving GLPL's "mitigated" 2002 rates on an interim basis, the Board implicitly approved GLPL's proposed revenue requirement of $12.7 million and the company's proposed rate mitigation plan.

GLPL submitted that the Board had to have been aware that the "mitigated" 2002 rates proposed by GLPL, and approved by the Board on an interim basis, would result in GLPL not being able to collect its proposed revenue requirement of $12.7 million. GLPL noted that the $12.7 million revenue requirement was based on a return on equity of 9.88%, a return used by the Board to set rates of other distributors. GLPL argued that

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[6] In March 2004, the Board granted interim approval to GLPL for a recovery of 25% of regulatory asset balances (see RP-2004-0119/EB-2004-0423, Decision and Order, March 16, 2004). GLPL subsequently filed a Notice of Motion requesting the Board to vary its decision and to permit GLPL to recover a portion of the balance in account 1574. The material supporting the motion included an amended application that incorporated the balance in Account 1574. The Board denied GLPL's request to amend the interim order. The Board's decision (RP-2004-0119/EB-2004-0243, Decision and Order, April 16, 2004) stated: "The Board cannot be expected to vary its previous decision because an applicant might have thought that, after the fact, it could have included in its original application the recovery of this amount." The Board also noted that GLPL could seek inclusion of the deferred amount as part of the second phase of the Regulatory Assets Proceeding.

[7] RP-2005-0013/EB-2005-0031, Decision and Interim Order, March 30, 2005.

because the Board (a) would have been aware of its statutory obligation to set just and reasonable rates, even on an interim basis, and (b) would have known that the "mitigated" 2002 rates would not result in a return on equity of 9.88%, a return that GLPL concluded was fair, the Board must have accepted the full $12.7 million revenue requirement and the company's rate mitigation plan before it could approve the "mitigated" 2002 rates on an interim basis.

GLPL submitted that all rate orders, whether interim or final, issued by the Board under section 78 (3) of the *OEB Act* must set rates that are just and reasonable and cited case law in support of this position. GLPL also submitted that it is a well established regulatory principle that "just and reasonable rates" must be set at levels to allow a utility the opportunity to earn a fair return on invested capital. It argued that it would be wrong to view the Board's May 13, 2002 interim order as a stop-gap measure that was intended to facilitate the prompt unbundling of GLPL's electricity businesses in time for the opening of the Ontario electricity market on May 1, 2002. It argued that, although the Board might not have decided on all of the components of GLPL's 2002 application before issuing the interim order, it was required to turn its mind to the rates it approved and those rates would have to be just and reasonable. In order to find in GLPL's favour the Board should be presumed to have accepted GLPL's rate mitigation proposal and to have found that the interim rates set to collect $9.8 million could not be considered just and reasonable unless the $12.7 million revenue requirement and the rate mitigation plan were also approved.

The June 27, 2003 letter from the Minister of Energy, referenced above, which directed the Board to reduce GLPL's residential rates stated: "The amended rate schedule is based on a total revenue requirement of $9.8 million including Rural and Remote Rate Protection." GLPL submitted that this statement does not suggest that the Board approved a revenue requirement of only $9.8 million for 2002. GLPL relies on the second paragraph of the Minister's letter, which states:

> *This support [RRRP] will result in significant reductions to overall electricity bills for these customers. In addition, <u>when combined with the company's own mitigation efforts</u>, industrial and large commercial customers will also enjoy reduced electricity distribution rates." [emphasis added by applicant in its submission]*

GLPL takes the position that the reference to the “company’s own mitigation efforts” should be interpreted as the Minister acknowledging that the revenue requirement for 2002 was $9.8 million plus the mitigation amount of $2.9 million.

VECC argued that there is no evidence that either the Board or the Minister of Energy implicitly approved GLPL’s rate mitigation plan. VECC does not dispute that interim rate orders must have an evidentiary basis, and that they must be just and reasonable. But VECC argued that those requirements do not detract from their fundamental nature as orders which are interim pending a final determination by the Board. VECC submitted that the facts are that the Board never made a final order on the appropriateness of GLPL’s 2002 rate application.

Board staff submitted that the 2002 rates approved on an interim basis were not based on GLPL’s rate mitigation proposal. Staff argued that:

> *GLPL rates were set on recovery [of] expenses, such as depreciation and OM&A. Rates would likely have changed if the application was subject to a full review (e.g.,OM&A expense allowed for recovery in rates may have been reduced as has occurred in other applications).*

GLPL argued that Board staff provided no evidence that the 2002 rates were expense-based. GLPL also urged the Board to disregard Board staff’s statement that 2002 rates would likely have changed had a full hearing taken place. The 2002 revenue requirement cannot be revisited in this proceeding and the Board should not be guessing about what might or might not have transpired in the event of a full hearing.

Both VECC and Board staff also argued that the Board’s Accounting Procedures Handbook (“APH”) prohibits use of Account 1574 without explicit Board approval. GLPL acknowledged that it did not seek Board approval to use Account 1574 and argued that it was not required to do so. GLPL argued that VECC and Board staff had misinterpreted the provisions of the APH concerning Account 1574.

The Algoma Coalition objected to approval of recovery of Account 1574 over the next 11 years, especially in light of the lack of revenue and cost projections for that period. The Coalition also expressed concern about what it describes as GLPL’s failure to notify customers or act on the account prior to incurring significant carrying costs. The

Coalition supported staff's submission about GLPL's lack of authority to establish Account 1574.

Board Findings

The following facts touching on this issue are not in dispute:

- The GLPL distribution rates approved by the Board and attached as Appendix A to its May 13, 2002 Interim Decision and Order did not reflect a revenue requirement of $12.7 million.
- Neither the Board's May 13, 2002 interim decision and order nor any subsequent Board decision or order in respect of GLPL's distribution business approve, or even mention, a $12.7 million revenue requirement for 2002 or a rate mitigation plan.
- GLPL did not receive any explicit authorization from the Board to accumulate amounts in Account 1574 for future recovery from ratepayers.

Notwithstanding the lack of even a single reference in any Board document to a $12.7 million revenue requirement for 2002 or a rate mitigation plan, the Board is being asked by GLPL to find that those items were carefully considered by the Board and implicitly approved in the May 13, 2002 interim rates decision.

The Board does not accept GLPL's argument.

Firstly, GLPL is speculating about what the Board did or did not consider before issuing its interim decision. It provides no evidence that the $12.7 million proposed revenue requirement and rate mitigation plan were approved. If the May 13, 2002 decision, which is completely silent on those issues, can be interpreted as "implicit approval" of GLPL's proposal, then it can as easily be interpreted as "implicit disapproval" of the proposal. The silence of the Board on this issue cannot be reasonably used as evidence of its endorsement of what was at the time a material proposition affecting present and future rates.

Secondly, GLPL's position ignores the context for the Board's May 13, 2002 interim decision. GLPL's distribution business was not regulated by the Board until 2002. The May 13, 2002 interim decision and order was the first Board order setting rates for

GLPL's distribution business. It is inconceivable that the panel that rendered the May 13, 2002 decision would have approved a $12.7 million revenue requirement (and the rate mitigation plan) without any input from the interested parties. To have done so would have been totally inconsistent with the Board's longstanding practice of ensuring that affected parties have a fair opportunity to be heard.

Thirdly, GLPL is attaching much more significance to an interim order than is warranted. Section 21 (7) of the OEB Act states: "The Board may make interim orders pending the final disposition of a matter before it." The evidentiary basis for interim rate decisions is almost always less complete than it is for a final decision and the applicant's pre-filed evidence is generally untested. In a 1989 decision (which is quoted in part in the GLPL argument), the Supreme Court described the distinction between interim and final orders:

> *A consideration of the nature of interim orders and the circumstances under which they are granted further explains and justifies their being, unlike final decisions, subject to retrospective review and remedial orders. The appellant [CRTC] may make a wide variety of interim orders dealing with hearings, notices and, in general, all matters concerning the administration of proceedings before the appellant. Such orders are obviously interim in nature. However, this is less obvious when an interim order deals with a matter which is to be dealt with in the final decision, as was the case with the interim rate increase ordered in Decision 84-28. If interim rate increases are awarded on the basis of the same criteria as those applied in the final decision, the interim decision would serve as a preliminary decision on the merits as far as the rate increase is concerned. This, however, is not the purpose of interim rate orders.*
>
> *Traditionally, such interim rate orders dealing in an interlocutory manner with issues which remain to be decided in a final decision are granted for the purpose of relieving the applicant from the deleterious effects caused by the length of the proceedings. Such decisions are made in an expeditious manner on the basis of evidence which would often be insufficient for the purposes of the final decision. The fact that an order does not make any decision on the merits of an issue to be settled in a final decision and the fact that its purpose is to provide temporary relief against the deleterious effects of*

the duration of the proceedings are essential characteristics of an interim rate order.[8]

In summary, GLPL's position is without foundation. There is simply no basis upon which the Board can conclude that the accumulation in this account was ever explicitly or implicitly approved by the Board, either as to the amounts added to it over the years, or the more basic question as to the appropriateness of the use made of the account by the Applicant at all. Permitting GLPL to dispose of the account as it has requested would not be consistent with reasonable regulatory practice or common sense, and the GLPL's proposal is denied.

OM&A EXPENSES

The following table is derived from Board staff's submission and sets out amounts contained in GLPL's evidence and confirmed by GLPL to be accurate:

Table 2: Controllable OM&A Expenses

	2005 Actual	2006 Actual	2007 Forecast
Operations	$ 1,438,000	$ 1,582,700	$ 1,695,200
Maintenance	2,968,000	2,873,600	2,865,800
Billing and Collection	1,045,300	1,076,100	1,144,400
Administration	1,908,300	2,067,600	2,290,300
Total Controllable OM&A	**$ 7,359,600**	**$ 7,600,000**	**$ 7,995,700**
Increase over prior year		**3.3%**	**5.2%**

Board staff noted that while the overall increase in GLPL's controllable OM&A from 2005 to 2007 is forecast to be 8.6%, there were a number of components of the increase that were considerably larger. Board staff sought additional clarification from the Applicant related to increases in some of these areas. Neither VECC nor the Algoma Coalition had any submissions related to GLPL's OM&A expenses. In its Reply Submissions, GLPL responded to the concerns raised by Board staff.

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[8] Bell Canada v. The Canadian Radio-Television and Telecommunications Commission [1989] 1 S.C.R. 1722, p. 34.

Outside Services Employed

The amount in this account has increased from $644,200 in 2005 to $855,500 in 2007, an increase of 33%. GLPL identified that “the net increase in the account is primarily due to an increase in expenses associated with regulatory issues.” Board staff noted that GLPL did not explain which regulatory issues were driving the increase, or provide a breakdown of the increase between these issues. In its Reply Submissions, GLPL argued that a significant point related to this account that Board staff’s submission had failed to highlight was that GLPL had proposed a $62,700 decrease in this account from 2006 to 2007.

Bad Debt Expense

Board staff noted the Applicant’s statement that the proposed 2007 recovery for bad debt expense, which increased by 54% from 2006 to 2007, was based on a historical average from 2003 to 2006. Staff expressed the concern that both 2005 and 2006 actual bad debt expenses were much lower than 2003 and 2004 expenses, and stated that it was unclear why, under such circumstances, a four-year average provides an appropriate forecast of bad debt expense. In its Reply Submissions, GLPL stated that the four-year average normalized the history and provided a forecast that GLPL felt was neither too high nor too low. Furthermore, GLPL stated that it had no reason to believe that the lower bad debt expenses in 2005 and 2006 were indicative of a trend that would continue to 2007 and beyond.

Station Buildings and Fixtures Expense

Board staff noted that GLPL had listed eight factors influencing the 50% increase ($181,000) in this expense from 2005 to 2007, but had not provided a breakdown of the amount of the increase between these factors. In its Reply Submissions, GLPL listed the four largest contributing factors and their amounts.

Meter Expense

GLPL stated that there was a $114,700 (52%) increase in this expense between 2006 and 2007. GLPL provided an explanation of the components of the increase, but staff expressed the concern that it was unclear as to why these costs increased so much in

one year, when the 2005 to 2006 increase was only 8.4%. In its Reply Submissions, GLPL stated that the higher increase in 2007 was related to: (i) the full-year effects in 2007 of the hiring of a metering technician and supervisor during 2006, (ii) the allocation of a significant portion of time and expenses to other accounts by the technician in 2006 and (iii) an increase in Electrical and Protection & Control assistance for completion of meter exchanges.

Employee Costs

Board staff noted that there had been an 8.5% increase in OM&A labour costs in the 2007 forecast year and that one of the key components of this increase was related to non-unionized employees, the number of which has increased from 29.7 FTE positions in 2005 to 34.6 FTE positions in 2007. GLPL stated that the increase is due to the replacement of six contract and temporary employees with full time employees. GLPL noted that it has frequently used contract and temporary staff to meet its staffing needs. However, GLPL argued that there were a number of inherent issues with this approach that made it no longer cost effective, including the difficulty in retaining temporary workers as they were always looking for permanent positions elsewhere. GLPL also explained the increase as being due to annual wage increases of 3%, progressions of junior staff and changes in the Company's labour mix. In its Reply Submissions, GLPL argued that the increase in labour costs forecasted for 2007 was reasonable and had been sufficiently explained and justified throughout the proceeding.

Board Findings

Based on the evidence provided, the Board considers that the overall level of the proposed increase is reasonable and, accordingly, accepts the Applicant's proposed Controllable OM&A expenses.

The increases year over year are quite modest, and the Board considers the Applicant's explanations for increases or changes in spending to be persuasive. In some cases these explanations appeared in Reply Submissions, never an optimal situation. However, insofar as Board staff raised such issues as it had respecting this spending proposal in its submissions, there was no other practical means to respond to staff concerns.

Property Taxes

GLPL has requested recovery of municipal property taxes in the amount of $164,300 for forecast 2007. This compares to amounts of $151,800 in 2005 and $160,000 in 2006.

Board Findings

The Board accepts GLPL's municipal property tax levels as proposed.

COST OF CAPITAL

Table 3 summarizes GLPL's proposed capital structure and cost of capital. GLPL has relied on the cost of capital elements of the Board's 2006 Electricity Distribution Handbook and the Board's decisions when setting 2006 rates of other distributors.

Table 3: GLPL's Cost of Capital Proposal

Cost of Capital Parameter	GLPL's Proposal
Capital Structure	50% debt, 50% equity (actual capital structure is 100% equity).
Short-Term Debt	None. 2006 Electricity Distribution Rate Handbook did not provide for ST debt in capital structure.
Long-Term Debt	6.25%, deemed rate derived from the 2006 Electricity Distribution Rate Handbook.
Return on Equity	9.0%, per 2006 Electricity Distribution Rate Handbook.
Preference Share Dividend Rate	Not applicable.
Weighted Average Cost of Capital	7.63%, based on proposed capital structure.

GLPL's proposed debt-equity ratio, deemed debt rate, and return on equity ("ROE") are consistent with the ratios and rates used to set 2006 rates for other Ontario electricity distributors.

In December 2006, the Board issued a report that set out the Board's policy on capital structure and cost of capital for electricity distributors for 2008 and subsequent rate

years (the “Board’s Cost of Capital Report”).[9] That report specifies a deemed capital structure of 4% short-term debt, 56% long-term debt, and 40% equity, with a transition period of up to three years for distributors to comply. The Board’s Cost of Capital Report also sets out the methodologies for determining debt rates and ROE. Those methodologies resulted in the following rates that were used to set rates in 2008 cost of service proceedings:

- Return on Equity: 8.57%
- Long-term debt rate: 6.10%
- Short-term debt rate: 4.47%

These rates are all lower than the rates proposed by GLPL.

Section 2.3.3 of the Board’s Cost of Capital Report explains the implementation process:

> C*hanges to a distributor’s cost of capital will be implemented beginning with applications for 2008 distribution rates.*
>
> *A distributor’s transition to the common deemed capital structure will start in 2008 regardless of whether the distributor rebases in that year or continues to be subject to 2nd Generation IRM.*
>
> *Other cost of capital parameters – updating of the ROE and long term debt rate, incorporating the deemed short-term debt rate, and implementing the short term debt component in the capital structure – will be implemented when a distributor files a cost-of-service rebasing application.*

GLPL has not adopted the approach set out in the Board’s Cost of Capital Report on the basis that such an approach is applicable only for cost of service applications for 2008 and later years. GLPL characterizes its filing as an application for 2007 rates. GLPL submitted that, had it applied to rebase its rates in the 2006 rate setting process (which it did not do), it would have proposed a revenue requirement using a 6.25% debt rate and a 9.0% ROE. The 2006 revenue requirement would have been carried forward to 2007 rates through the Board’s IRM process.

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[9] *Report of the Board on Cost of Capital and 2nd Generation Incentive Regulation for Ontario’s Electricity Distributors*, December 20, 2006.

The Algoma Coalition made no submissions on GLPL's proposed cost of capital.

VECC opposed GLPL's proposal. It disagreed with GLPL's submission that the 9.0% ROE used to set 2006 rates was held constant in the 2007 IRM process. VECC submitted that the whole purpose of an IRM mechanism is to separate rate setting from a detailed review of a utility's costs.

VECC and Board staff noted that the only other rate regulated electricity entity that applied to the Board for 2007 rates on a cost of service basis was Hydro One Networks' transmission business. In its decision on that application (EB-2006-0501), the Board approved a return on equity of 8.35%, which was determined using the methodology set out in the Board's Cost of Capital Report. In VECC's submission, the same approach should also apply to GLPL.

VECC stated that it was prepared "to accept the 50/50 debt/equity simply on the basis that there is no indication (unlike there is for ROE) that the Board would have chosen to start the phase-in for a capital structure change in 2008."[10] VECC noted that, in the absence of other 2007 cost of service applications, the Board had not found it necessary to publish a deemed long-term debt rate. VECC submitted that the Board should do so for GLPL's application, but that in the alternative the 6.25% deemed debt rate set by the Board in the 2006 Electricity Distribution Rate Handbook should be acceptable.

Board staff submitted that GLPL's proposed ROE and long-term debt rate would be reasonable if GLPL's application is only for 2007 rates and if GLPL intends to subsequently file an application for 2008 rates, either as a Cost of Service application or under the 2nd Generation IRM approach. If GLPL does not intend to apply for adjusted rates in 2008, Board staff expressed concern that GLPL's proposal results in a cost of capital that is not reflective of, and higher than would be warranted under, current market conditions.

In its Reply Submissions, GLPL reiterated its proposal, and repeated that it intends to file a cost of service application for 2008 rates, at which point it would be subject to the

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[10] VECC Final Submissions, May 23, 2008, para. 5.7, p. 6.

capital structure transition and cost of capital parameters as documented in the Board's Cost of Capital Report.

Board Findings

GLPL's application is clearly different from recent cost of service applications made by other distributors and it does not fit neatly within the Board's policies and guidelines for the electricity distribution rate applications. GLPL is the only electricity distributor to file a cost of service application based on a 2007 test year; all other distributors had their rates for the year beginning May 1, 2007 set under the Board's 2nd generation IRM framework. When GLPL filed its application on August 31, 2007, other distributors had filed, or would soon file, applications for new rates effective May 1, 2008 based on either (i) cost of service applications with 2008 test year costs, or (ii) the Board's 2nd generation IRM framework.

The Board is not persuaded that there is a valid reason to set GLPL's revenue requirement by reference to the cost of capital parameters that were used to set 2006 rates for other distributors. GLPL did not file an application for 2006 rates, the only rates for which the 2006 cost of capital parameters were relevant.

When GLPL filed its current application in August 2007, the Board's Cost of Capital Report had been public for over eight months. That report set out the applicable Board policies for cost of capital issues for electricity distributors; Board determinations in 2006 rate decisions were no longer relevant. As noted above, that report stated: "Changes to a distributor's cost of capital will be implemented beginning with applications for 2008 distribution rates." That reference to 2008 was based on a distributor's rates being set in the manner and at the times contemplated by the Board's multi-year rate setting plan for electricity distributors. It was not meant to restrict the Board's ability to apply the new cost of capital policies when setting rates in processes outside of the multi-year plan for distributors.

As noted by VECC and Board staff, the Board did apply the ROE methodology from the Board's Cost of Capital Report in the 2007 Hydro One Networks transmission case. The Board's decision in that case was released August 16, 2007, before GLPL filed its application.

The Board finds that GLPL's deemed cost of debt and return on equity should be calculated using the most recent rates used to set rates for other distributors (ROE – 8.57%, long-term debt rate – 6.10%). However, the Board will accept GLPL's proposed deemed capital structure of 50% debt, 50% equity. When GLPL filed its application, there was no clear signal (unlike there was for ROE) from the Board that it might choose to start the transition to the 60% debt, 40% equity structure before May 1, 2008. The Board expects that in GLPL's next cost of service application, which is expected shortly, the deemed capital structure will comply with Board's Cost of Capital Report.

RATE BASE AND CAPITAL EXPENDITURES

GLPL's proposed 2007 rate base is shown in Table 4.

Table 4: Rate Base

$000s	2005 Actual	2006 Actual	2007 Forecast
Net fixed assets:			
Opening	$ 42,276	$ 48,149	$ 52,045
Closing	48,149	52,045	57,004
Average	47,213	50,097	54,524
Working Capital Allowance	3,208	3,274	3,389
Rate Base	**$ 50,421**	**$ 53,371**	**$ 57,913**
% increase		6.2%	8.5%

Source: GLPL Application Ex 2, Tab 1, Sch 1.

The associated capital expenditures for 2007 and the five preceding years are shown in Table 5.

Table 5: Capital Expenditures by Year

$000s	2002	2003	2004	2005	2006	2007
Sustainment	$3,068	$6,435	$5,869	$3,264	$6,132	$6,572
Change from previous year	-	110%	-9%	-44%	88%	7%
Operations	$1,802	$1,514	$1,565	$1,970	$1,384	$2,011
Change from previous year	-	-16%	3%	26%	-30%	45%
Total	**$4,870**	**$7,949**	**$7,434**	**$5,234**	**$7,517**	**$8,583**
Change from previous year	-	63%	-6%	-30%	44%	14%

Table 5 demonstrates that the level of operations capital is relatively consistent over time, varying between $1.4 million and $2.0 million. However, sustainment capital is much more variable, following a pattern of a low year and then two high years; the 2005 level of $3.3 million is followed by 2006 and 2007 levels of $6.1 and $6.6 million respectively. Further details provided on the record indicate that the majority of increases in capital expenditures are in the categories: “Land Rights”, “Buildings and Fixtures – Distribution Plant”, “Overhead Conductors and Devices”, “Meters” and “Transportation Equipment.”

Board staff raised a concern as to how the capital expenditure in transportation equipment is allocated between the Transmission and Distribution sides of GLPL’s business. In its Reply Submissions, GLPL stated that the costs of the transmission fleet manager are allocated evenly between Transmission and Distribution, while fleet capital costs and operating expenses are allocated based on hours of use.

VECC did not oppose GLPL’s capital expenditures.

Service Reliability

In its application, GLPL has programs required for the maintenance of service reliability, namely right-of-way (“ROW”) widening and high risk conductor replacement. However, GLPL provided no information on the record of this proceeding related to its service reliability performance. Board staff submitted that this would be valuable information that should be provided in support of a utility’s proposed capital expenditures program

and budget, and is a factor in assessing the adequacy of an asset management plan in the electricity distribution sector. Board staff submitted that the service reliability performance information should be provided in any future rates application.

Capital planning

In its submission, the Algoma Coalition states that GLPL has repeatedly stated that it does not have a five- or ten-year capital and maintenance plan. GLPL has advised the Algoma Coalition that it does not have this type of plan beyond the current year and that capital plans are done on an annual basis.[11]

While provisionally accepting GLPL's revenue requirement in the current application, the Algoma Coalition suggests that the Board require GLPL to provide a long-range capital and maintenance plan as part of a subsequent cost of service application.

Working Capital Allowance

In its May 16, 2008 submission, GLPL stated that it had no objection to updating, for the purposes of calculating the working capital allowance, the commodity price from $0.0527/kWh to the most current Regulated Price Plan ("RPP") price, as the Board has directed in its decisions for other distributor rate applications. In its submission, VECC stated that it would be inappropriate for the working capital allowance to be updated to reflect the most current RPP commodity price, which is a forecasted price for 2008, on the basis that GLPL's application is for 2007 rates.

Depreciation

GLPL has proposed depreciation expenses of $3.623 million for 2007. GLPL amortizes assets in accordance with the 2006 Electricity Distribution Rate Handbook, except for vehicles which are depreciated over 5 years.

No party opposed GLPL's proposed depreciation expense.

[11] Algoma Coalition Final Submissions, May 23, 2008, p. 5, para. 16.

Board Findings

The Board accepts GLPL's 2007 capital expenditures as proposed. Further, the Board accepts GLPL's average in-service net fixed assets of $54.524 million as proposed. The amount proposed for 2007 is not out of line with the level of spending over the past several years. The Board notes that no intervenor took exception to the proposal of the Applicant in this category of spending, and accordingly, the Board can find no basis within the evidence or the submissions for a disallowance.

The Board accepts GLPL's depreciation expense for 2007 as proposed.

The Board finds that GLPL should use the cost of power available from the Board-approved RPP that was in effect when the oral hearing ended ($0.0545/ kWh) when calculating its working capital allowance.

The Board will not provide specific directions to GLPL with respect to long-term capital planning or service quality. The prudence of the Company's actions will be scrutinized by the Board in subsequent cases. However, the Board is of the view that it would be beneficial to all parties for the Applicant to provide an appropriate level of detailed information and pertinent documentation in the future in support of its cost of service applications, including a comprehensive asset management plan, asset condition assessment results, and service quality and reliability performance data that, taken together, provide genuine insights into how the Applicant is planning, operating, and managing its infrastructure, and its performance with respect to service reliability.

LOAD FORECASTING

GLPL stated that due to lack of data it was unable to perform either a meaningful statistically-based weather-normalization study or a meaningful historical trending analysis. In developing its load forecast, GLPL noted that for most customer classes it relied on the 2006 EDR Handbook's averaging approach using data for the years 2003-2006. The 2007 kWh forecast was calculated only for those classes that used the kWh charge determinant while the 2007 kW forecast was calculated for the remaining classes. GLPL's forecast is based on a forecasted customer count of 11,593 for 2007, essentially a zero increase over 2006; the historical growth was 0.1% per annum. The resulting 2006-2007 forecasted load change shows a 4.4% kWh growth for classes using the kWh charge determinant and a 9.2% kW growth for the other classes. These

load growths contrast with those during the 2003-2006 period when the average annual load changes were negative 2.5% and positive 5.9% respectively. Board staff noted that the customer count forecast was consistent with the historic trend but had a concern with the forecasted kWh/kW load growths.

Board staff submitted that the kW/kWh load methodology employed did not use any weather normalization and ignored evident trends in the base data. Board staff also submitted that that when filing future applications, GLPL should utilize multi-year weather normalization and use established load forecasting techniques. In its Reply Submissions, GLPL reiterated the data shortage problems that caused it to use its particular approach and stated that it will continue to maintain consumption data going forward so that it will be in a position to conduct a meaningful weather-normalization study in the future.

VECC stated that the approach used by GLPL was not in fact the same as that set out in the 2006 EDR Handbook. Whereas the 2006 EDR Handbook states an average historical use *per customer* is to be calculated, GLPL had determined the forecasted kWhs and kWs for most classes by simply averaging the *total* historical use by customer class. VECC expressed the view that the load forecast should be based on historical average use per customer. In its reply submission, GLPL noted that the variations in loads between the two forecasting techniques are minimal.

Board staff invited GLPL to comment on whether 2007 actual customer numbers and load should be used to set rates in this case. In its Reply Submissions, GLPL agreed that the 2007 actual customer numbers and loads are the most accurate data available and, if the Board deems it appropriate, GLPL would apply the 2007 actual customer numbers and loads. GLPL noted that this would eliminate concern around the technique it had employed.

Board Findings

The Board accepts GLPL’s 2007 actual customer count and loads for the purpose of setting the rates in this application. The Board agrees that these are the most accurate data available and will eliminate concern around the technique the Applicant used. In its Rate Order, GLPL should re-state the 2007 actual values for customer count by

class, kWh by class for those classes that use the kWh charge determinant and kW by class for those classes that use the kW charge determinant.

By using 2007 actual values, forecasting methodological issues have been eliminated. Nevertheless, to assist with any future rate applications that GLPL may make, the Board believes it would be useful to comment on certain aspects of the forecasting methodology that GLPL employed in this application. These comments should not be construed as over-riding any instructions the Board may issue in future; rather, they should be regarded as items that should be considered when preparing a load forecast.

GLPL's load forecast provided kWh estimates for those classes that use the kWh charge determinant and separate kW estimates for those classes that use the kW charge determinant. The relationship between the two charge determinants was not defined and thus the Applicant's forecasted total load (and its change) was undetermined. Since an understanding of year-over-year load change is an important element in rate setting, the total loads (historical and forecasted) should be included in addition to the values of individual charge determinants.

The Board notes GLPL's intention to continue to maintain consumption data going forward so it will be in a position to conduct a meaningful weather-normalization study in future. The Board encourages GLPL to include multi-year weather normalization in any future rate applications since this is an effective method of removing the vagaries of weather from historical load data.

VECC noted that GLPL based its forecast on the average historical total use by customer class rather than the average historical use per customer. The Board encourages GLPL to use the most meaningful unit of usage available. Also, GLPL may wish to consider if it is appropriate to include trends in usage over time rather than relying exclusively on average usage values. Finally, GLPL may wish to consider incorporating forward-looking factors in developing its forecasts reflecting, for example, anticipated demographic and economic effects, and the likely influence of local and province-wide CDM measures.

LINE LOSSES

GLPL has proposed a reference-point Total Loss Factor (TLF) for 2007 of 1.1025 for secondary metered customers greater and less than 5,000 kW. The underlying Distribution Loss Factor (DLF) corresponding to the proposed TLF is 1.0976 and is based on the average of GLPL's actual DLFs for 2005 and 2006. These actual DLFs are higher than GLPL's current Board-approved DLF of 1.0750 which was approved in 2002 and was based on an approved TLF of 1.0798. During the four-year period from 2003 to 2006, GLPL's actual DLFs have steadily declined from 1.1053 to 1.0969.

VECC submitted that given the initiatives GLPL is undertaking to reduce losses, it considers the averaging of DLFs for 2005 and 2006 to be appropriate.

Board staff submitted that GLPL's proposed TLF is higher than Hydro One's proposed TLF for its core retail customers located in a service territory of sparse customer density. GLPL acknowledged that its proposed TLF is approximately one percentage point higher than Hydro One's.

Board staff also submitted that GLPL's proposed suite of TLFs does not account for the lower losses attributable to customers with demand greater than 5,000 kW vis-à-vis customers with demand less than 5,000 kW. GLPL responded that it has never had a different loss factor for customers on either side of the 5,000 kW threshold. This is consistent with their most recent Board-approved loss factors but contrary to the norm in other distributors' service areas.

Board Findings

The Board recognizes that GLPL's proposed TLF is higher than their most recently approved TLF. The Board also recognizes that the actual DLFs during the 4-year period from 2003 to 2006 have been higher than the underlying approved DLF corresponding to that period. Good ratemaking practice suggests that, to the extent possible and practical, rates and charges at a point in time should reflect the most current information so that any differences captured in variance accounts would be minimized. The Board is encouraged that GLPL has undertaken initiatives to reduce losses going forward and also recognizes GLPL's continuation of its practice to not differentiate between customers greater and less than 5,000 kW.

While in the normal course the Board would prefer that the figure would be the direct product of the most recent information, in this case the method chosen produces a number that is credible and has the advantage of being practical. The Board finds GLPL's proposed TLF of 1.1025 for secondary metered customers acceptable.

CHANGE IN CUSTOMER CLASSIFICATIONS AND RATE DESIGN

Section 79 (1) of the *OEB Act* requires that: "The Board, in approving just and reasonable rates for a distributor who delivers electricity to rural or remote customers, shall provide rate protection for those consumers or prescribed classes of consumers by reducing the rates that would otherwise apply in accordance with the prescribed rules."

In August 2007, the Ontario government amended Regulation 442/01, *Rural or Remote Electricity Rate Protection*, and issued Regulation 445/07, *Reclassifying Certain Classes of Consumers as Residential-Rate Class Customers: Section 78 of the Act.* The new and amended regulations have a significant effect on GLPL's customer classifications and the amount of RRRP for GLPL.

Reclassification of Customers and Creation of Residential Subclasses

GLPL currently has six customer classes, one of which is called "Residential". It proposed three classes: Residential, Seasonal, and Street Lights. It adopted a useful nomenclature of "Residential" and "Deemed Residential", where the latter term refers to three existing classes: GS < 50 kW, GS > 50 kW, and Large Customer B. The request applied to all "residential" i.e. both Residential and Deemed Residential.

GLPL proposed two distribution rates for the Residential class: R1, which would have a monthly service charge and a variable charge based on kWh consumed (kWh), and R2, which would have a different monthly service charge and a variable charge based on peak demand (kW). Under its proposal, the existing Residential customers and the Deemed Residential customers who have been billed on energy would pay the R1 energy rate and the corresponding Monthly Service Charge. The Deemed Residential customers who currently pay a demand rate would pay the R2 demand rate and

corresponding Monthly Service Charge. GLPL submitted that, in addition to the practical matter of the two groups being metered differently, there would have been unacceptable bill impacts if the Deemed Residential customers currently billed on demand were to be moved to an energy rate.[12]

The Algoma Coalition submitted that the existing distribution rates should remain unchanged, which for the customers in question would be four Monthly Service Charges, with two corresponding energy rates and two demand rates[13].

VECC submitted that, by proposing two separate sets of rates for the Residential class, GLPL opened the door to more than two sets of rates within the "Residential" class, and that the Board should not preclude considering more than two rates for the Residential class in the future.[14] Board Staff also suggested that more than one set of rates within the class was supportable.

The Algoma Coalition submitted that the proposed rates are not fair and equitable because of a "massive discrepancy" between the residential customers in the Town of Dubreuilville and the residential customers elsewhere in the Algoma District. (Here the term "residential" is used in its usual sense.) The customers in Dubreuilville are served by GLPL's Large Customer B, which is Dubreuil Forest Products Limited ("Dubreuil"), and the customers elsewhere are served by GLPL.[15] GLPL rejected the validity of the comparison, on the basis that there is no evidentiary record to underpin such an approach. GLPL also suggested that there was questionable relevance to a comparison between itself and Dubreuil as distributors. Dubreuil is primarily a forest products manufacturer, and is a distributor by reason only of its interposition between GLPL and the Town. It also noted that Dubreuil is a distinctly separate utility and GLPL has no evidence as to whether its costs are passed on to Dubreuil's customers.[16] It is also noteworthy that Dubreuil is explicitly exempt from many of the key obligations imposed by regulation on conventional distributors.

[12] GLPL Argument-in-Chief, p. 32
[13] Algoma Coalition Submissions-in-Chief, para 35 a
[14] VECC Final Submissions, para 7.7-7.8
[15] Algoma Coalition Submissions-in-Chief, p. 2
[16] GLPL Reply Submissions, p. 58 and transcript p. 108

<u>Board Findings</u>

As indicated above, in adopting the regulations, the province has directed a rate class structure that is not predicated on cost causality, or any other conventional methodology. The regulations are intended to make RRRP available to a greater number of customers than has been the case, and they do so by deeming certain customers to be residential customers, even though they do not inherently qualify for that classification. GLPL's rate design proposal treats two types of customers that are metered differently in a reasonable and fair fashion and the Board accordingly approves GLPL's rate design as proposed.

The regulations collapse all but two of GLPL's current customer classifications into the residential rate class, the obvious purpose of which is to extend RRRP eligibility to a substantially greater number of its customers. As the Applicant examined implementation of the regulations it found that the only way to ensure that the clear intention of the regulations was met was to bifurcate the residential class into the residential energy subclass on one hand, and residential demand subclass on the other.

So far from precluding this kind of bifurcation of the Residential class into subclasses, it appears clear to the Board that the only way to give proper effect to the regulations is to adopt this structure. In doing so there is no prejudice to any of the existing customers of the Applicant, and for some there is a significant and desirable outcome. he fact that there are customers that do not benefit to the same degree as others is not in the Board's view undue discrimination in the very unique circumstances of this case. The reclassification reflected in the Applicant's proposal is driven by explicit regulatory intervention by way of Regulations that pre-ordain these outcomes.

Accordingly, the Board approves GLPL's proposal to establish two subclasses of residential customers, one class billed on energy consumption and the other on peak demand.

Calculation of RRRP – Average Rate Adjustments for Other Distributors

Section 4 (3.1) of amended Regulation 442/01 requires the Board to calculate the amount by which GLPL's "forecasted revenue requirement for the year, as approved by the Board, exceeds the distributor's forecasted consumer revenues for the year." Section 4 (3.2) of that regulation requires forecasted customer revenues to be based on

currently approved rates “adjusted in line with the average, as calculated by the Board, of any adjustment to rates approved by the Board for other distributors for the same year.”

Board staff proposed two methodologies for the calculation of the average adjustment to GLPL’s rates for the 2007 year and proposed that whichever was chosen should be used in future years to calculate the average adjustment for future years. The staff proposals were presented at the Technical Conference where VECC and the Algoma Coalition questioned the use of historical data and other rate changes which could impact the delivery component and therefore the adjustment factor. The Algoma Coalition offered an alternative method using peer groups rather than the vast majority of distributors in the province as proposed by Board staff. No other positions were put forward.

OPTION ONE:

The adjustment factor is based on the year over year percentage change in the simple average of the “Delivery” component (as shown on the “Standard Bill” format).

OPTION TWO:

The adjustment factor is based on the year over year percentage change in the load-weighted average of the “Delivery” component (as shown on the “Standard Bill” format).

For both options, the data are readily available and in the public domain. The calculations are relatively simple and straight forward. The data set includes all the bills of each distributor (e.g. the 87 acquired utilities of Hydro One and the 11 Chatham-Kent rate classes). In both cases, the adjustment factor is calculated based on the “Delivery” component of bills for a residential class customer at a consumption level of 1,000 kWh per month, which Board staff suggest is a reasonable proxy for “the average, as calculated by the Board, of any adjustment to rates approved by the Board for other distributors for the same rate year”.

Both options proposed by staff:

- Round the adjustment factor to one decimal point;

- Reflect the level of a bill issued on May 1, 2007 compared to a bill issued on May 1, 2006;
- Assume that the “Delivery” component includes the Monthly Service Charge, the Volumetric Distribution component, and the charges associated with the cost of transmission; and
- Are based on data of the Residential 1,000 kWh per month bills for all distributors whose rates have changed in the period (except GLPL, the three First Nations distributors, and Hydro One Remote Communities).

Board Findings

The method chosen to calculate the average adjustment to GLPL’s residential rates will be used in future years and should be a method that is transparent and which does not require adjustment in future years. For these reasons, the Board finds that the un-weighted methodology described as Option One above and appearing as Option One in exhibit KTI.3 is the appropriate methodology for the calculation of the average adjustment to GLPL’s residential rate for the 2007 rate year and for all future adjustments, unless determined otherwise by a future Board decision. Further, the Board approves the value of 2.2%, which was calculated using the Option One methodology and which is provided in exhibit KT1.3, as the 2007 average adjustment to residential rates.

As the 2007 rate year is an historical year, GLPL has the customer usage information available by class to calculate its actual 2007 revenues and the costs applicable to each customer class and also to calculate Other Revenues.

With the above finding on the average adjustment, GLPL can now calculate the revenues from its residential customers for the 2007 rate year.

GLPL is directed to calculate and submit the amount of RRRP funding it requires for 2007.

Cost Allocation

GLPL submitted in evidence the results of its Informational Filing EB-2007-0003, based on the existing customer classes. No cost allocation results were in the record based on the classification proposed by GLPL.

VECC submitted that cost allocation is a relevant exercise among the three classes in GLPL's proposal: Residential, Seasonal, and Street Lighting. VECC submitted that the Board should not preclude the use of cost allocation studies in future filings.[17] GLPL agreed with VECC that cost allocation should be revisited in a future filing. GLPL continued in its Reply Submission[18] to note that cost allocation within the Residential class (including the Deemed Residential customers) would be irrelevant.

The Algoma Coalition submitted that the requirements of the Regulation could be achieved without restructuring the classes, and that a cost allocation study based on the existing classes would remain relevant.[19]

The Algoma Coalition submitted that it would be appropriate for the Board to order that a cost allocation study be completed prior to GLPL's next rate application.[20] GLPL submitted that the standard cost allocation exercise does not work in its situation, and that the reclassification of customers together with the RRRP makes its cost allocation complicated. GLPL stated that it is unlikely that it could complete a cost allocation review in time for its 2008 rate application.[21]

Board Findings

Cost allocation is a key element in conventional ratemaking and rate design. However, the circumstances presented by this applicant and the regulatory instruments devised to address them make it much less relevant for this applicant at this time. In adopting the Regulations, the province has directed a rate class structure that is not predicated on cost causality, or any other conventional methodology. The regulations are intended to make RRRP available to a greater number of customers than has been the case, and

[17] VECC Final Submissions, para 7.5
[18] GLPL Reply Submissions, p. 56
[19] Algoma Coalition Submissions-in-Chief, para 26
[20] Algoma Coalition Submissions-in-Chief, para 34
[21] GLPL Reply Submissions, p. 56

they do so by deeming certain customers to be residential customers, even though they do not inherently qualify for that classification.

The Board will not require GLPL to conduct a cost allocation study that includes an assessment of the relative cost responsibility of the two residential subclasses described above. It would be prudent for the Company to conduct such a study reflecting the respective cost contributions of the residential class taken as a whole, the seasonal customers, and the street lighting classification. The Board recognizes that such a study could not be reasonably completed prior to the Applicant's application for 2008 rates.

Proposed Revenue Shortfall for the New Residential Class

Table 6 shows GLPL's proposed revenue requirement, its calculation of RRRP, and forecast revenue by customer class (or subclass) based on the rates GLPL proposed to charge consumers. With respect to the residential class, the total of RRRP and the revenue expected to be collected from customers is $1,041,000 less than GLPL's proposed revenue requirement ($555,000 for the R1 subclass and $486,000 for the R2 subclass). This is shown in the "Shortfall" column in Table 6.

The shortfall arises because GLPL has proposed some residential percentage increases that are lower than the percentage required to be used in the calculation of RRRP under Regulation 442/01. In its application, GLPL assumed the average increase in rates of other distributors was 5% for 2007. GLPL has proposed to set rates for the residential class that are lower than those rates. As shown in the last column of Table 6, for customers in two existing rate classes that are being reclassified as residential consumers (GS<50 kW and Large Customer B), the proposed rates are substantially lower than existing distribution rates.

Table 6: Revenue shortfall under GLPL's proposed distribution rates

$000s	Forecast Revenue for RRRP (Note 1)	Proposed Revenue Reqt. (Note 2)	RRRP	Customer Payments at Proposed Rates	Shortfall	Typical Dx Rate Impact (Note 3)
	A	B	C=A-B	D	E=B-C-D	
Residential (R1)	$ 3,298.1	$ 10,136.0	$ 6,837.9	} $ 4,140.5	$ 555.0	5.0%
GS<50 (R1)	1,397.4	2,470.3	1,072.9			-38.9%
Large Cust. B (R2)	634.3	1,121.3	487.0	} 759.9	486.0	-75.4%
GS>50 (R2)	611.6	1,081.3	469.7			5.0%
Total, new R1/R2 class	**$ 5,941.4**	**14,808.9**	**8,867.5**	**4,900.5**	**1,040.9**	
Seasonal		2,740.8	-	1,728.9	1,011.8	16.7%
Street lights		61.3	-	44.6	16.8	34.9%
Total		**$ 17,611.0**	**$ 8,867.5**	**$ 6,674.0**	**$ 2,069.5**	

Sources: Exhibit 8-1-1, Tables G, H, L and O; response to hearing undertaking J2.

Notes:

1. Revenue calculated using: distribution rates that are 5% higher than current rates, and 2007 forecast load and customer numbers.
2. The proposed revenue requirement is from GLPL's original application and excludes the small reduction subsequently proposed by GLPL.
3. The rate impacts shown are based on the proposed distribution rates that were used to calculate the customer payments in column D.

GLPL requested Board approval of a deferral account to record the shortfall, which GLPL described as the "transitional shortfall" in revenues due to the establishment of a single residential rate class. GLPL also proposed that it would attempt to recover the balance through the RRRP in a future proceeding. GLPL did not explain, however, the basis on which the account balance could be recovered through RRRP. GLPL requested that if the account cannot be cleared through the RRRP plan, the Board clear the account in a future period as part of GLPL's revenue requirement for that period.

Board Staff noted that the establishment of this account depended on whether it met the principles the Board has typically applied when it has considered proposed deferral accounts. GLPL responded in its final submission by detailing how, in its view, the proposal was consistent with Board practice.

VECC stated it had significant reservations about the rate redesign proposal because it leads to the revenue shortfall for 2007. VECC noted that the two (former) customer classes that are contributing to the under recovery (GS<50 kW and Large Customer B) create the need for the deferral account. Both former classes are enjoying substantial distribution bill reductions as a result of the proposal and VECC is concerned that GLPL would recover this deficiency from other rate payers in the future. VECC submitted that GLPL should be solely at risk with respect to the possibility that the deferral account may not be cleared through the RRRP plan.

In its reply submissions, GLPL reiterated its view that the revenue shortfall due to rate design transition is beyond its control. It stated: “[T]he transitional deferral is arising because of the requirements of the regulation to treat all customers reclassified under one class.”[22] GLPL opposed VECC’s submission that GLPL should be solely at risk with respect to the possibility that the account might not be recovered through future RRRP payments.

Board Findings

RRRP in Table 6 is based on GLPL’s assumption that the average increase in rates of other distributors was 5% for 2007. As noted earlier in this decision, the Board has approved an adjustment factor of 2.2% for 2007, which will result in somewhat higher RRRP than shown in Table 6. That additional RRRP would reduce, but would not eliminate, the residential revenue shortfall shown in Table 6.

GLPL claimed that the revenue shortfall is simply a one-time event caused by the reclassification of four existing rate classes into the new, single residential class. It asserted that the revenue shortfall is beyond its control.

As Table 6 makes clear, the forecast revenue shortfall would arise because GLPL has proposed distribution rates that would limit increases to customers in two of the former rate classes (residential and GS>50 kW) to 5% while significantly reducing the rates charged to customers in the other two former rate classes (GS<50kW and Large Customer B). In fact, the new R1 and R2 residential rates proposed by GLPL would result in residential customers as a group paying less for distribution services than they currently pay.

The Board does not accept GLPL’s submission that the revenue shortfall is a necessary consequence of the regulations.

The revenue shortfall can be eliminated by increasing the rates charged to residential customers. During the oral hearing, a GLPL witness acknowledged that the regulations do not restrict the Board’s ability to approve rates that might result in some customers experiencing rate increases that are greater than the adjustment factor used to calculate

[22] GLPL’s Reply Submissions, p. 57.

RRRP payments under Regulation 442/01 (GLPL's application assumed a 5% increase, and the Board has approved an adjustment factor of 2.2%).[23]

The Board notes GLPL's desire that the shortfall be covered by RRRP payments. In the Board's view, the amount of the revenue shortfall proposed by GLPL can be included once, and only once, in a Board-approved revenue requirement for GLPL. If the Board were to approve the deferral account sought by GLPL and GLPL proceeded to accumulate the revenue shortfall in the account, then the account balance in the future would really represent a portion of the current period's revenue requirement that had been used to calculate current period RRRP payments under Regulation 442/01. It is not clear to the Board how that amount could also be included in a future period's revenue requirement that would give rise to further RRRP payments.

The Board directs GLPL to eliminate the forecast revenue shortfall for the residential class by increasing rates for the R1 and R2 classes. Although this direction will result in larger bill increases for customers in the former residential and GS>50kW classes (and smaller decreases for the former GS<50kW customers and Large Customer B), the Board notes these increases will be offset (perhaps substantially) by the impact of the Board's decision not to allow GLPL to collect any amount that has been accumulated in Account 1574 – Sub Account Rate Mitigation.

GLPL may decide to charge residential customers less than the Board-approved rates that eliminate the revenue shortfall. If GLPL were to charge such lower rates, then GLPL, not other customers, will have to fund the revenue shortfall. If GLPL decides to proceed in this manner, the rate order it files arising from this proceeding should clearly reflect the same, and should clearly reflect the relevant portion of the funding for these rates that is not to be recovered from ratepayers.

Given the Board's decision that the forecast revenue shortfall should be eliminated, there is no need for the Board to consider GLPL's request for a deferral account.

[23] Hearing Transcript Volume 1, p. 113 (line 5) to p. 114 (line 25).

Mitigation for Seasonal Customers

RRRP payments are not available for GLPL's non-residential customer classes, being Seasonal and Street Lighting. For those customers, GLPL proposed to hold total bill impacts to no more than 10%.

For the Seasonal customer class, the total bill impact was forecast to be an increase of 51% prior to mitigation[24]. GLPL requested a deferral account to record the revenue shortfall of approximately $1,011,800 per year that resulted from limiting the impact. The bill impact on Street Lighting is forecast at approximately 25% prior to mitigation. GLPL did not propose to record or recover the shortfall that will be the result of mitigation for this class.

VECC agreed with the proposal to mitigate the impact on Seasonal customers but was concerned that future recovery may fall to other customer classes.

Board findings

The Board accepts the Applicant's proposal to establish a mitigation plan for Seasonal customers and to reflect in a deferral account the amount of revenue foregone arising from that mitigation plan. The Applicant will use account 1574.

The Board is concerned however, that this deferral account not be permitted to accumulate a balance that at some point may produce even more undesirable outcomes than the rate increases it is designed to avoid.

In its next rate application the Applicant is required to present a planned approach for the management of the mitigation plan so as to ensure that balances are cleared with regularity, at levels and in a manner that does not result in undue hardship for these customers or any other class of customers.

2007 TEST YEAR INCOME TAX

GLPL's income taxes for regulatory purposes for 2005 through 2007 are shown in Table 7.

[24] GLPL Argument-in-Chief, p. 36

Table 7: Regulatory Income Taxes

	2005 Actual	2006 Actual	2007 Forecast
Federal	$ 172,000	$ 77,600	$ 949,500
Provincial	113,400	35,600	623,700
Total	**$ 285,400**	**$ 113,100**	**$ 1,573,200**

Source: GLPL Argument-In-Chief, p. 22.

The amounts shown in Table 7 differ from the amounts included in GLPL's pre-filed evidence for two reasons. Firstly, the amount of tax for 2007 has increased by a minor amount due to an adjustment in capital cost allowance (CCA) claims. Secondly, at the Technical Conference, GLPL amended its 2005 and 2006 tax calculations to include in taxable income the amounts that GLPL booked to the rate mitigation sub account of deferral account 1574 in those years. That amendment resulted in regulatory tax expenses in those years compared to the tax losses shown in the pre-filed evidence. GLPL stated that there is no tax loss carry-forward created by the Distribution business on a stand-alone basis.

As a corporation, GLPL is obliged to pay federal and provincial income taxes. Its taxable income or loss is calculated on the aggregate income or loss of all of its businesses. The financial results of GLPL's distribution business are included in the calculation of the corporation's taxable income although the distribution business does not file tax returns because it is a division of GLPL rather than a separate legal entity.

VECC submitted that it is unclear whether the proposed 2007 tax provision takes into account new CCA classes and rates that were introduced in the March 2007 federal budget. In its reply, GLPL agreed to incorporate the new classes and rates in the tax calculation when it prepares a draft rate order. The Board finds this approach acceptable.

Board staff questioned the need for an income tax provision in the 2007 revenue requirement in light of GLPL's pre-2007 corporate tax loss carry-forwards. GLPL stated that those loss carry-forwards arose because of expenses in the company's non-distribution businesses. Staff also took the position that, in the event the Board

disallows recovery of a deferral account balance, the regulated distribution business itself would have pre-2007 losses that should be used to eliminate any 2007 tax provision. Both of these issues are addressed in the sections below.

Benefit of tax losses arising from GLPL's unregulated businesses

At the end of 2006, GLPL had material tax losses that can be carried forward to offset future taxable income. GLPL stated that those losses were due to expenses of its non-distribution businesses and should be disregarded in setting the revenue requirement of the regulated distribution business. GLPL submitted that this approach was consistent with the stand-alone principle for income tax provisions that has been adopted by the Board and other regulators.

Board staff expressed concerns about GLPL's proposal to include an income tax provision in its 2007 revenue requirement notwithstanding the fact that GLPL has tax loss carry-forwards that would eliminate the corporation's 2007 tax bill. The staff submission stated: "Parties may wish to comment on the stand-alone concept in this case with respect to 2007 test year tax allowance. Stated more directly, should the ratepayers pay for federal and provincial taxes that will not be paid?"

In its reply submission, GLPL argued that:

> *Board staff is effectively requesting that the Board depart from its long established application of the stand alone principle applied in respect of the provision of regulatory tax allowances and to adopt the concept that regulatory tax allowance[s] should reflect an apportioning of tax payable between the distribution and non-distribution business.*

GLPL provided several excerpts from past Board decisions and other sources to support its claim that the stand alone principle has been adopted for income tax provisions by the Board and other regulators, and to illustrate how the principle has been applied in proceedings before the Board and in other jurisdictions. GLPL submitted that were the Board to abandon the stand alone principle in this case, the resulting rates would not be just and reasonable because:

- Ratepayers would receive the benefit of a tax deduction without paying the expense which gave rise to it;

- Cross subsidization would occur because rates would be based on a tax expense that would be lower than it would have been absent the non-distribution businesses;
- There would be retroactive altering of the conditions assumed by the investor at the time investments were made in the non-utility operations; and
- Shareholders of GLPL would be denied the same treatment available to other shareholders under the *Income Tax Act*.

Board Findings

The Board finds that the 2007 test year tax provision should be calculated without regard for corporate tax loss carry-forwards that arose due to losses in GLPL's non-distribution businesses.

The Board agrees with GLPL that it has been the Board's policy to apply the stand-alone principle when assessing the tax provisions of regulated businesses. In the Board's view, fairness in ratemaking requires adherence to the principle that a party who bears a cost should be entitled to any related tax savings or benefits.

Prior to release of the *2006 Electricity Distribution Rate Handbook* ("2006 DRH"), the Board considered arguments related to a somewhat similar question – Who should benefit from the tax deductions for expenses that are not included in the determination of a distributor's rates? The Report of the Board on the Handbook states that:

> *… the Board rejects the proposal by Schools, and concludes that tax savings arising from disallowed expenses, including purchased goodwill and charitable donations, will not be allocated to ratepayers. Ratepayers have not paid for the expense through rates, and therefore are not entitled to the tax benefit.*[25]

The principle that the Board relied on in accepting the 2006 DRH treatment of disallowed expenses is equally applicable in this case. The pre-2007 expenses and losses of GLPL's unregulated businesses were borne by GLPL's shareholder, not ratepayers. It would be fundamentally unfair to take such tax losses into account when

[25] RP-2004-0188, May 11, 2005, p. 55.

setting rates for regulated service. To abandon the stand-alone principle in this case would give rise to the inappropriate result that rates for regulated service would be affected by the income or loss of a non-regulated business.

Benefit of pre-2007 tax losses in GLPL's regulated business

As noted earlier, GLPL's evidence is that there are no pre-2007 loss carry forwards in the distribution business on a stand-alone basis. The reason for that result appears to be that, in years before 2007, GLPL included in its calculation of taxable income the annual increase in deferral account 1574. Board staff submitted that "if the values accumulated in account 1574 are not permitted for recovery in rates, it appears the GLPL distribution division would have incurred operating losses in years prior to the test year." In the staff's opinion, the existence of such prior year regulatory tax losses would make it unnecessary for a tax allowance to be recovered from customers in 2007. [26]

The second tax issue raised by staff is whether, in the event the Board disallows recovery of a deferral account balance, the regulated distribution business itself would have pre-2007 losses that should be used to eliminate any 2007 tax provision.

GLPL argued that, in the event the Board disallows recovery of the balance in account 1574, loss carry-forwards arising pre-2007 should be for the benefit of GLPL's shareholder. GLPL noted that any pre-2007 losses that arise in the event of the Board's denial of recovery of account 1574 must be due to variations in load or expenses compared to the amounts on which GLPL's then existing rates were based. Ratepayers would not have paid any amount due to unfavourable variations in load or expenses. Based on the stand-alone principle, GLPL argued that ratepayers should not be entitled to any benefit of those losses and that applying such pre-2007 losses to reduce the 2007 regulatory tax provision would constitute retroactive ratemaking. Board staff did not comment in its submission on whether the reason for the pre-2007 losses is relevant to whether the losses should be used to eliminate 2007 taxes.

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[26] In its submission, Board staff also argued that GLPL has overstated its regulatory tax provisions in 2006 and earlier years by voluntarily including the annual increase in account 1574 in taxable income. Staff submitted that GLPL's action of recognizing the increase in account 1574 as taxable income in 2006 and earlier years is not something a stand-alone business would consider necessary or would consider to be prudent tax management. In effect, the staff seemed to be arguing that GLPL should be considered to have loss carry-forwards for regulatory purposes whether or not the Board disallows recovery of account 1574. Because the Board has determined that GLPL will not be permitted to recover the balance in account 1574, it is not necessary to consider and make a finding on this alternative staff argument.

Board Findings

Given that GLPL has included the annual accruals to account 1574 in its taxable income for 2006 and earlier years, the Board's decision to disallow recovery, as set out earlier in this decision, will affect GLPL's tax returns. Board staff and, it appears, GLPL as well, assume that a Board decision to disallow recovery would require GLPL to file revised tax returns for 2006 and earlier years that exclude the account 1574 accruals. That would result in a higher pre-2007 loss carry-forward than has been reported by GLPL to date. The Board has accepted that assumption in its analysis and findings on this issue. However, whether that is the required tax treatment, or whether the earlier tax returns will be left unchanged and the disallowance deducted in 2007 or 2008 tax returns as a loss, would have no effect on the Board's findings on this issue.

The 2006 DRH sets out for electricity distributors how the Board generally intended to address applications for 2006 distribution rates. Among other issues, it dealt with how loss carry-forwards would be treated in setting the 2006 revenue requirements of distributors. The DRH sets out the consensus view of the working group as to how loss carry-forwards should be treated:

> *A distributor expecting to have any loss carry-forwards still available on December 31, 2005 must disclose the amount of those loss carry-forwards in the 2006 application, apply them in full to reduce the taxable income calculated in the 2006 regulatory tax calculation.*[27]

The Report of the Board that accompanied the 2006 DRH discussed the Board's rationale for approving this treatment of loss carry forwards:

> *The Draft Handbook requires the distributor to take into account the potential reduction in actual taxes payable where a loss carry-forward is applicable.*
>
> *Hydro One submitted that any loss carry-forward resulting from revenue or expense variations in prior years was irrelevant for the 2006 calculation. It argued that the ratepayer has not contributed to the prior loss and therefore is not entitled to the future tax savings. Hydro Ottawa made similar submissions.*

[27] 2006 Electricity Distribution Handbook, May 11, 2005, p. 61.

> *Conclusions*
>
> *The Board has no evidence before it to determine whether loss carry-forwards are the result of revenue or expense variations or whether the loss carry-forwards arise for reasons that may be related to ratepayers. The Board notes that the consensus approach [take loss carry-forwards into account when setting 2006 rates] will reduce the variance between taxes collected in rates and actual taxes paid. The Board will accept this approach in the Handbook.*[28] *[emphasis added]*

Although the Board accepted the position in the 2006 DRH that loss carry-forwards should be taken into account in setting 2006 rates, the Board does not believe that position is applicable in all rates cases before the Board. It is clear from the highlighted sentence in the Report of the Board that the Board attaches some significance to the reasons for losses. It is also clear from that sentence that approval of the 2006 DRH position on loss carry-forwards was taken without the opportunity to hear any evidence on what might have led to the losses.

The balance in account 1574 as at December 31, 2006 was over $12 million. That amount is more than 50% of the capital account (owner's equity) shown in GLPL's 2006 audited financial statements. Since the Board has denied recovery of a major portion of account 1574, the amount denied would be excluded from GLPL's pre-2007 financial results thereby indicating that GLPL would have incurred significant operating losses for the period 2002 to 2006. It is highly unlikely, in the Board's view, that GLPL's customers absorbed any of those losses. Except for some increases in rates authorized by the Board to collect certain regulatory assets, GLPL's distribution rates have not increased since May 2002, when GLPL's rates first became subject to Board oversight. In fact, in June 2003, the Minister of Energy directed the Board to reduce rates for GLPL's residential and certain other customers.

The Board finds that pre-2007 losses of the distribution business should not be used to eliminate the tax provision for the 2007 test period. The Board reiterates its view that the benefits of a tax loss should be realized by the party – shareholders or ratepayers – that bore the expenses or losses that gave rise to the tax loss. Since the Board has denied recovery of the amount accrued for rate mitigation in account 1574, the resulting

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[28] RP-2004-0188, Report of the Board, May 11, 2005, p. 57.

losses should not be attributed to ratepayers but rather to GLPL, which sustained those losses and should retain the related tax benefits.

DEFERRAL AND VARIANCE ACCOUNTS

In addition to account 1574, Deferred Rate Impact Amounts, which has been discussed earlier in this Decision, the Company proposed to dispose of balances in certain deferral/variance accounts and to establish two new accounts.

Existing Deferral and Variance Accounts

The following additional accounts were requested for clearance as per GLPL's Argument-in-Chief:

1508 Other Regulatory Assets $207,609
1562 Deferred Payments In Lieu of Taxes ($103,338)
1570 Qualifying Transition Costs $1,103,217
1580 RSVA – Wholesale Market Service Charge $211,882
1584 RSVA – Retail Transmission Network Charge $(2,893)
1586 RSVA – Retail Transmission Connection Charge ($298,501)
1588 RSVA – Power $179,341
1590 Recovery of Regulatory Balances ($3,057,670)

1508 Other Regulatory Assets

GLPL has requested recovery of account 1508 sub-account OEB Cost Assessments. This balance is related to the difference between OEB cost assessments for 2004/05 and 2005/06 up to April 30, 2006 and the amount of OEB costs included in GLPL's current rates.

Intervenors had no comments on this balance.

Board Findings

The Board approves disposal of the balance in Account 1508 in the manner described in the section, Implementation of Clearance of Deferral and Variance Accounts, later in this decision.

Account 1562 Deferred Payments In Lieu of Taxes

GLPL is requesting to refund to customers the balance in account 1562 related to the repeal of the Large Corporation Tax.

Board staff expressed concerns with this account. Board staff questioned whether the Company should be following the accounting guidance established for utilities in account 1562, despite the fact that the Company is not subject to Section 93 of the *Electricity Act, 1998*. Board staff also questioned the usage of the account versus account 1592 and the impact on the expected combined hearing on accounts 1562, 1563, and 1592.

Intervenors had no comments on this balance.

Board Findings

The Board will not dispose of this account as part of this proceeding. Before approving disposition of account 1562 for any distributor, the Board has concluded it is necessary to ensure that distributors have been following a consistent approach to making entries to the account. As announced on March 3, 2008, the Board will initiate a combined proceeding to determine the accuracy of final balances in account 1562 for the seven distributors. Thus, the Board does not approve clearance of account 1562 at this time, and will defer this matter until after the combined proceeding has been concluded.

1570 Qualifying Transition Costs

GLPL requested recovery of balances related to the costs incurred to meet market readiness requirements for Market Opening in 2002 plus applicable carrying charges. The company provided reasons why costs exceeded $60 per customer and how each met the four regulatory principles.

VECC stated that in their view, GLPL had adequately documented and supported the requested for disposition in this account.

<u>Board Findings</u>

The Board finds that the balance in this account will be disposed, subject to the Implementation of Clearance of Deferral and Variance Accounts section in this decision.

Account 1580 RSVA – Wholesale Market Service Charge,
Account 1584 RSVA – Retail Transmission Network Charge,
Account 1586 RSVA – Retail Transmission Connection Charge, and
Account 1588 RSVA – Power

GLPL requested recovery of the balances of their RSVA accounts up to December 31, 2004. Board staff noted that the Board had recently launched an initiative to review commodity variance accounts, possibly including other RSVA accounts as well. Board staff also noted that the Board approved the clearance of the pre-2005 balances in these accounts for most other distributors in the 2006 EDR proceedings.

VECC noted that most 2008 EDR decisions have resulted in balances not being cleared due to the review process, and therefore saw no specific reasons why the Board's practice should be different in this case.

<u>Board Findings</u>

The Board accepts the Company's proposal to clear the balances of their RSVA accounts up to December 31, 2004 in the manner described in the section, Implementation of Clearance of Deferral and Variance Accounts, further in this decision. The Board notes that it is appropriate to clear the pre-2005 balances as most utilities had RSVA balances, related to the period GLPL has applied for, cleared during the 2006 EDR before the recently announced initiative of the Board. Doing so will align the period that the company's RSVA balances relate to with the industry, assisting in the analysis of the review commodity variance accounts to other distributors.

<u>New Deferral and Variance Accounts</u>

Elsewhere in this decision the Board has approved the use of a variance account to capture the Revenue Shortfall due to Rate Mitigation Plan for Seasonal Customers.

IMPLEMENTATION

Board Findings

The Board has made GLPL rates effective on September 1, 2007. Implementation date will be proposed by GLPL as the earliest reasonable date when they can implement the Decision.

Since rates will not be implemented until after the effective date, the mechanics of recovering deferral and variance account balances become an issue. Recovering only the principal and carrying charge balance as of the effective date would create a residual balance in accounts resulting from carrying charges accrued from the effective date to the implementation date. These residuals, unless dealt with in this decision, would be required to be cleared in a later proceeding. Furthermore, the Board notes that it would not be in the public interest to have these residual balances recovered from future ratepayers, since these accounts were closed as per the *Accounting Procedures Handbook* several years ago.

Also, GLPL has been recovering a portion of its deferral and variance accounts from its rate payers via a rate rider as per the Phase One Regulatory Assets Decision in account 1590. Using only the balance in account 1590 as of the effective date would understate the payments that ratepayers have already made to the company in the period from effective date to implementation date.

Finally, the Company has foregone revenue from the effective date of the new rates to the implementation date of the new rates. This lost revenue is the difference between the amount the Applicant actually collected from rate payers based on the old rates from the effective date to the implementation date, and the amount the Applicant would have collected from rate payers if the new rates were implemented on the effective date.

Therefore, the Company shall transfer the approved balances to account 1590 from the respective deferral and variance accounts on the effective date as per the Board findings above, not the implementation date. This should result in some accounts, such as account 1570, being fully cleared. This will also result in a new calculated value in account 1590 as of the effective date. Carrying charges on account 1590 to the implementation date will apply as per the Board prescribed interest rate methodology.

GLPL is ordered to clear and close accounts 1508 – Sub Account OEB Costs, 1570 Transition Costs, and 1574 Deferred Rate Impact Amounts – Sub Account Boniferro at the effective date.

When calculating the lost revenue caused by the difference between effective and implementation dates in rates, the Company will include recoveries earned from the rate rider attached to account 1590 in this calculation. The calculations should exclude RRRP. The Applicant will also demonstrate how the lost revenue is allocated to the two residential rate groups. The lost revenue will be calculated on a monthly basis, and be used to offset the balance in account 1590. The final projected balance as of the implementation date of this process is to be cleared over 2 years. After the recovery period is completed, the company will submit an application to true up the balance in account 1590 as per Phase 2 Decision for the Review and Recovery of Regulatory Assets for the five large distributors (RP-2004-0117, RP-2004-0118, RP-2004-0100, RP-2004-0069, RP-2004-0064).

The Company is expected to provide supporting schedules and calculations, including allocation between the two residential rate groups for this implementation when submitting the rate order.

THE BOARD THEREFORE ORDERS THAT:

1. GLPL shall file with the Board, and shall also forward to all intervenors, a draft Rate Order attaching a proposed Tariff of Rates and Charges reflecting the Board's findings in this Decision, within 14 days of the date of this Decision. The draft Rate Order shall also include customer rate impacts and detailed supporting information showing the calculation of the final rates.

2. Intervenors shall file any comments on the draft Rate Order with the Board and forward to GLPL within 20 days of the date of this Decision.

3. VECC, the Algoma Coalition and Dubreuil shall file with the Board and forward to GLPL their respective cost claims within 26 days from the date of this Decision.

4. GLPL shall file with the Board and forward to all intervenors, responses to any comments on its draft Rate Order within 26 days of the date of this Decision.

5. GLPL shall file with the Board and forward to VECC, the Algoma Coalition and Dubreuil any objections to the claimed costs within 40 days from the date of this Decision.

6. VECC, the Algoma Coalition and Dubreuil shall file with the Board and forward to GLPL any responses to any objections for cost claims within 47 days of the date of this Decision.

7. GLPL shall pay the Board’s costs incidental to this proceeding upon receipt of the Board’s invoice.

DATED at Toronto, October 30, 2008
ONTARIO ENERGY BOARD

Original Signed By

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Kirsten Walli
Board Secretary

APPENDIX A

Ontario Regulations relating to Rural or Remote Electricity Protection

Regulation 445/07

ONTARIO REGULATION 445/07

made under the

ONTARIO ENERGY BOARD ACT, 1998

Made: July 25, 2007
Filed: August 2, 2007
Published on e-Laws: August 3, 2007
Printed in *The Ontario Gazette*: August 18, 2007

RECLASSIFYING CERTAIN CLASSES OF CONSUMERS AS RESIDENTIAL-RATE CLASS CUSTOMERS: SECTION 78 OF THE ACT

Treating certain consumers as residential-rate class customers

1. (1) For the purposes of fixing just and reasonable rates for a distributor under section 78 of the Act, the Board shall ensure that a consumer who falls into one of the following categories shall be treated as a residential-rate class customer if the criteria in subsection (2) are satisfied:

1. A consumer who is charged by the distributor as a general service, less than 50 kilowatt demand rate-class customer.
2. A consumer who is charged by the distributor for the distribution of electricity as having a demand of greater than 50 kilowatt rate-class customer.

(2) A consumer who falls into one of the categories set out in subsection (1) shall be treated as a residential-rate class customer if,

(a) the distributor that serves the consumer is licensed to serve in an area of not less than 10,000 square kilometres in size; and

(b) the average customer density for the distributor is less than seven customers per kilometre of distribution line.

(3) The rate classifications to ensure that consumers that fall into a category set out in subsection (1) are treated as residential-rate class customers if the criteria in subsection (2) are satisfied take effect on the date of the distributor's next rate order made on or after August 15, 2007.

2. This Regulation comes into force on the day it is filed.

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Regulation 442/01

Ontario Energy Board Act, 1998
Loi de 1998 sur la commission de l'énergie de l'Ontario

ONTARIO REGULATION 442/01

RURAL OR REMOTE ELECTRICITY RATE PROTECTION

Consolidation Period: From August 2, 2007 to the e-Laws currency date.

Last amendment: O. Reg. 446/07.

This Regulation is made in English only.

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2.	Eligibility for rate protection
4.	Amount of rate protection: 2003 and 2004
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Definitions

1. (1) In this Regulation,

"government premises" means premises occupied by the Crown in right of Canada or Ontario or a facility that is funded in whole or in part by the Crown in right of Canada or Ontario, but does not include premises occupied by,

(a) Canada Post Corporation, the Services Corporation or a subsidiary of the Services Corporation, or

(b) social housing, a library, a recreational or sports facility, or a radio, television or cable television facility;

"IMO" and "IMO-controlled grid" have the same meaning as in the *Electricity Act, 1998*;

"market participant" means a market participant under the *Electricity Act, 1998*;

"rate protection" means rate protection under section 79 of the Act;

"remote area" means those parts of Ontario not connected to the IMO-controlled grid that, before March 31, 1999, received electricity from Ontario Hydro and, at the time subsection 26 (1) of the *Electricity Act, 1998* comes into force, are receiving electricity from Hydro One Remote Communities Inc.;

"residential premises" means a dwelling occupied as a residence continuously for at least eight months of the year and, where the residential premises is located on a farm, includes other farm premises associated with the residential electricity meter;

"rural area" means those parts of Ontario connected to the IMO-controlled grid that, before March 31, 1999, received electricity from Ontario Hydro and, at the time subsection 26 (1) of the *Electricity Act, 1998* comes into force, are receiving electricity from Hydro One Networks Inc.;

"Services Corporation" has the same meaning as in the *Electricity Act, 1998*. O. Reg. 442/01, s. 1 (1); O. Reg. 383/04, s. 1 (1).

(2) REVOKED: O. Reg. 383/04, s. 1 (2).

Eligibility for rate protection

2. In addition to the persons described in subsection 79 (2) of the Act, the following classes of consumers in Ontario are eligible for rate protection:

1. REVOKED: O. Reg. 383/04, s. 2.

2. Consumers who occupy residential premises in a rural area and who, if section 108 of the *Power Corporation Act* had not been repealed by section 28 of Schedule E to the *Energy Competition Act, 1998* and electricity had continued to be distributed by Ontario Hydro, would have been entitled, pursuant to section 108 of the *Power Corporation Act* as it read on March 31, 1999, to pay Ontario Hydro a discounted rate for the electricity they consumed.

3. Consumers who occupy residential premises in an area referred to in Schedule 16, if Ontario Hydro distributed electricity in the area before December 16, 1997 and electricity in the area is now distributed by a distributor connected to the IMO-controlled grid, other than a subsidiary of Hydro One Networks Inc.

4. Consumers who occupy premises, other than government premises, in a remote area.

5. Consumers,

i. who are treated as residential-rate class customers under Ontario Regulation 445/07 (Reclassifying Certain Classes of Consumers as Residential-Rate Class Customers: Section 78 of the Act) made under the Act, or

ii. who occupy residential premises in an area served by a distributor where,

A. the distributor is licensed to serve the consumers,

B. the area is not less than 10,000 square kilometres in size, and

C. the average customer density for the distributor is less than seven customers per kilometre of distribution line. O. Reg. 442/01, s. 2; O. Reg. 262/03, s. 1; O. Reg. 383/04, s. 2; O. Reg. 446/07, s. 1.

3. REVOKED: O. Reg. 383/04, s. 3.

Amount of rate protection: 2004 and 2005

4. (1) The total amount of rate protection available for eligible consumers in each of the years 2004 and 2005 is $127 million, plus the amount calculated under subsection (2) for the year. O. Reg. 442/01, s. 4 (1); O. Reg. 383/04, s. 4 (1).

(1.1) The total amount of rate protection for eligible consumers in each year after 2005 shall not exceed $127 million plus the amount calculated under subsections (2) and (3.1) and shall be based on the amount of rate protection provided by the distributor to eligible consumers for the previous year. O. Reg. 335/07, s. 1 (1).

(2) For each year, the Board shall calculate the amount by which Hydro One Remote Communities Inc.'s forecasted revenue requirement for the year, as

approved by the Board, exceeds Hydro One Remote Communities Inc.'s forecasted consumer revenues for the year, as approved by the Board. O. Reg. 442/01, s. 4 (2); O. Reg. 383/04, s. 4 (3).

(3) For the purpose of subsection (2), Hydro One Remote Communities Inc.'s forecasted consumer revenues for a year shall be based on the rate classes set out in Transitional Rate Order RP-1998-0001 made by the Board and on the rates set out for those classes in the most recent rate order made by the Board. O. Reg. 442/01, s. 4 (3).

(3.1) For each year, in respect of the rates for a distributor serving consumers described in paragraph 5 of section 2, the Board shall calculate the amount by which the distributor's forecasted revenue requirement for the year, as approved by the Board, exceeds the distributor's forecasted consumer revenues for the year, as approved by the Board. O. Reg. 335/07, s. 1 (2).

(3.2) For the purpose of subsection (3.1), the distributor's forecasted consumer revenues for a year shall be based on the rate classes and on the rates set out for those classes in the most recent rate order made by the Board and shall be adjusted in line with the average, as calculated by the Board, of any adjustment to rates approved by the Board for other distributors for the same rate year. O. Reg. 335/07, s. 1 (2).

(4) For each year, the Board shall calculate the amount of rate protection for individual consumers referred to in subsection 79 (2) of the Act and in section 2 of this Regulation in a manner that ensures that the total amount of rate protection for those consumers is equal to the total amount of rate protection available for the year under subsection (1) or (1.1), according to the following rules:

1. REVOKED: O. Reg. 383/04, s. 4 (5).

2. For each of the areas referred to in Schedule 16, the Board shall take reasonable steps to ensure that, for each month, the total amount of rate protection for consumers in the area who are in the class described in paragraph 3 of section 2 is the total monthly amount set out for that area in Schedule 16.

3. The Board shall take reasonable steps to ensure that an amount equal to the amount calculated under subsections (2) and (3.1) for the year is used to provide rate protection to consumers who are in the class described in paragraphs 4 and 5 of section 2.

4. After paragraphs 2 and 3 are complied with, the Board shall take reasonable steps to ensure that the remainder of the total amount of rate protection available under subsections (1) and (2) is used to provide rate protection to,

i. the persons described in subsection 79 (2) of the Act, and

ii. the consumers who are in the class described by paragraph 2 of section 2. O. Reg. 442/01, s. 4 (4); O. Reg. 262/03, s. 2; O. Reg. 383/04, s. 4 (4-6); O. Reg. 335/07, s. 1 (3).

(5) Any distributor that distributes electricity to eligible consumers shall provide, on a quarterly basis, such information relating to this Regulation as the Board may require, in a form specified by the Board. O. Reg. 383/04, s. 4 (7).

Compensation for distributors

5. (1) The Board shall calculate the amount of the charge to be collected by the IMO under subsection (5) for each kilowatt hour of electricity that is withdrawn from the IMO-controlled grid, as determined in accordance with the market rules, for use by consumers in Ontario, so that the total amount forecast to be collected is equal to the total amount of rate protection to be provided. O. Reg. 383/04, s. 5 (1).

(2) At least 60 days before the end of each calendar year, the IMO shall submit to the Board,

(a) a forecast of the number of kilowatt hours of electricity that will be withdrawn from the IMO-controlled grid, as determined in accordance with the market rules, for use by consumers in Ontario during the next calendar year; and

(b) supporting documentation for the forecast. O. Reg. 442/01, s. 5 (2).

(3) The forecast shall be derived from information submitted to the Board under section 19 of the *Electricity Act, 1998* in respect of the next fiscal year O. Reg. 442/01, s. 5 (3).

(4) The IMO shall give a copy of the forecast and supporting documentation to Hydro One Networks Inc. O. Reg. 442/01, s. 5 (4).

(5) The IMO shall collect the charge calculated by the Board under subsection (1) from market participants and any other person who, with the approval of the IMO, withdraws electricity from the IMO-controlled grid for use by consumers in Ontario. O. Reg. 442/01, s. 5 (5).

(6) A distributor or retailer who bills a consumer for electricity shall aggregate the amount that the consumer is required to contribute to the compensation required by subsection 79 (3) of the Act with the wholesale market service rate described in the Electricity Distribution Rate Handbook issued by the Board, as it read on October 31, 2001. O. Reg. 442/01, s. 5 (6).

(7) Each month, the IMO shall pay the charges it collected under subsection (5) in the preceding month to Hydro One Networks Inc. O. Reg. 442/01, s. 5 (7).

(8) Hydro One Networks Inc. shall pay the amounts it receives under subsection (7) into a separate account. O. Reg. 442/01, s. 5 (8).

(9) Each month, Hydro One Networks Inc. shall, from the account referred to in subsection (8), pay distributors the compensation to which they are entitled under subsection 79 (3) of the Act. O. Reg. 442/01, s. 5 (9).

(10), (11) REVOKED: O. Reg. 383/04, s. 5 (2).

(12) If the amount collected under subsection (5) in a year exceeds the total amount of rate protection available for eligible consumers under subsection 4 (1) or (1.1) in the year, the excess less the amount used to provide rate protection under subparagraph 4 iii of subsection 4 (4) shall be applied against the amount necessary to compensate distributors who are entitled to compensation under subsection 79 (3) of the Act for the following year. O. Reg. 383/04, s. 5 (3).

(13) If the amount collected under subsection (5) in a year is less than the total amount of rate protection available for eligible consumers under subsection 4 (1) or (1.1) in the year, the difference plus the amount used to provide rate protection under subparagraph 4 iii of subsection 4 (4) shall be added to the amount necessary to compensate distributors who are entitled to compensation under subsection 79 (3) of the Act for the following year. O. Reg. 383/04, s. 5 (4).

(14) Any interest or other income earned on the account referred to in subsection (8) shall be held in the account and shall be used for the purpose of subsection (9). O. Reg. 442/01, s. 5 (14).

6. REVOKED: O. Reg. 383/04, s. 6.

7. OMITTED (REVOKES OTHER REGULATIONS). O. Reg. 442/01, s. 7.

8. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION). O. Reg. 442/01, s. 8.

SCHEDULES 1-15 REVOKED: O. Reg. 383/04, s. 7.

SCHEDULE 16
OTHER AREAS

Area	Total Monthly Amount of Rate Protection
Attawapiskat	$53,333.33
Fort Albany	30,000.00
Kaschechewan	50,000.00

O. Reg. 442/01, Sched. 16.