Ontario Energy Board

Commission de l'énergie de l'Ontario

EB-2008-0238

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 Northern Ontario Wires Inc. for an order approving or fixing just and reasonable rates and other charges for the distribution of electricity to be effective May 1, 2009.

BEFORE: Cynthia Chaplin
Presiding Member

Paul Sommerville
Member

DECISION AND ORDER

April 22, 2009

BACKGROUND

Northern Ontario Wires Inc. ("NOW" or the "Company") filed an application with the Ontario Energy Board (the "Board") on August 20, 2008, under section 78 of the *Ontario Energy Board Act, 1998*, seeking approval for changes to the rates that it charges for electricity distribution to be effective May 1, 2009. NOW is the licensed electricity distributor for the towns of Cochrane, Iroquois Falls and Kapuskasing.

NOW is one of over 80 electricity distributors in Ontario that are regulated by the Board. In 2006, the Board announced the establishment of a multi-year electricity distribution rate-setting plan for the years 2007-2010. In an effort to assist distributors in preparing their applications, the Board issued the *Filing Requirements for Transmission and Distribution Applications* on November 14, 2006. Chapter 2 of that document outlines the filing requirements for cost of service rate applications, based on a forward test year, by electricity distributors.

NOW informed the Board by letter dated February 5, 2008 that it would be one of the electricity distributors to have its rates rebased in 2009. Accordingly, NOW filed a cost of service application based on 2009 as the forward test year.

NOW requested a revenue requirement of $2,890,752 to be recovered in new rates effective May 1, 2009. The application indicated that the existing rates would produce a revenue deficiency of $301,238 for 2009. The resulting requested rate increase was estimated as 22.4% on the distribution component of the bill for a residential customer consuming 1,000 kWh per month.

The Board assigned the application file number EB-2008-0238 and issued a Notice of Application and Hearing dated September 17, 2008. The Board approved three interventions: The Vulnerable Energy Consumers' Coalition ("VECC"); the School Energy Coalition ("SEC"); and the Association of Major Power Consumers in Ontario ("AMPCO").

Procedural Order No.1 was issued on October 27, 2008. The Board made provision for written interrogatories and a transcribed technical conference. On January 9, 2009 the Board issued Procedural Order No.2 converting the technical conference to a supplemental round of Interrogatories and providing dates for submissions. VECC and SEC filed interrogatories and made submissions. Board staff also posed interrogatories and made submissions. NOW's reply argument was filed on March 2, 2009. The full record is available at the Board's offices.

THE ISSUES

The following issues were raised in the submissions filed by Board staff, VECC and SEC and are addressed in this Decision:

- Load Forecast
- Operating, Maintenance & Administrative Expenses
- Payments in Lieu of Taxes
- Rate Base
- Assessment of Asset Conditions and Asset Management Plan
- Cost of Capital and Capital Structure
- Cost Allocation and Rate Design
- Deferral and Variance Accounts
- Smart Meters

LOAD FORECAST

NOW based its load forecast on the normalized average consumption ("NAC") method. NOW weather normalized historical (2002 to 2007) throughput data and then derived the NAC estimate, by rate class, by using a weighted average calculation of annual loads from 2002 to 2007. The 2009 load forecast was determined by multiplying the class-specific NAC estimates by the test year customer count.

Customer count

NOW's customer count forecast for 2009 is 7,806 customers. This is approximately 1% lower than the 2006 actual. The Residential, GS<50 kW and GS >50 kW rate classes make up 78% of the total forecast. The following table identifies the customer count forecast by customer class:

Customer Count Forecast

2009 Test Year Customer Count Forecast		
Rate Classes	**No. of Customers**	**Proportion of Total**
Residential	5,200	67%
GS<50	785	10%
GS >50 kW	69	1%
USL	15	0%
Street Light	1,737	22%
TOTAL	**7,806**	**100%**

Board staff noted that NOW has experienced a consistent decline in customer count in recent years representing a negative average growth rate of 1.24%.
Board staff expressed concern with the lack of evidence provided in support of the forecast, such as regional development plans and housing start estimates, but concluded that the test year forecast appeared reasonable given the consistent and long-term rate of decline in the number of customers.

VECC submitted that the forecast customer counts for Residential and GS >50 kW are too low and that the forecast for GS<50 kW is too high. With respect to the Residential class, the variation is very small. VECC noted that, for the GS classes, the variation is larger, exceeding 2%. However, VECC observed that the updated customer count trends in the GS classes tend to directionally offset the differences in average use. Average use is addressed below.

Weather Normalization

NOW derived a weather normalization factor based on a ratio of actual and weather normalized province-wide consumption provided by the IESO. To create a weather normalization factor specific to its service area, NOW further adjusted the IESO normalization factor by a factor of 2.101, which NOW referred to as the “NOW Factor”. The NOW Factor was provided by Hydro One as part of the 2006 Cost Allocation study; however, NOW stated that it did not know the details of how the factor was calculated.

Board staff submitted that, in the absence of utility specific weather data, it was unable to confirm whether the proposed methodology accurately captures the impact of weather on NOW’s load. Board staff estimated that if the NOW Factor was excluded from the Company's normalization calculations, the proposed load forecast would increase by approximately 0.2% (or 203,166 kWh). Board staff also noted that by excluding all weather normalization, the proposed load forecast would increase by approximately 0.3% (or 387,633 kWh).

VECC submitted that there is no basis on which to assume that the IESO factor would be an appropriate adjustment to apply to NOW's load (which is influenced by local weather and the local penetration of weather-sensitive loads) in total, let alone by customer class. Further, VECC noted that it did not see how applying the ratio of NOW's 2004 weather sensitive load relative to its total load would result in an adjustment to the IESO factor to make it relevant to local conditions. VECC concluded that the Board should not accept NOW's approach to weather normalization. SEC agreed, stating that the NOW Factor is not supported by the evidence and should be removed from the load forecast calculation.

Load Forecast

NOW stated that, due to time and resource constraints, it was unable to produce an alternate forecast based on an econometric method and weather data specific to its service area. NOW revised its load forecast in response to a VECC interrogatory in order to correct an error in the 2004 values that led to a change to the 2009 forecast. The following table identifies the changes.

Load Forecast

Rate Class	As Filed (Ex 3/T2/S2/P3)	As per VECC IR #30
	(kWh)	(kWh)
Residential	41,161,457	40,986,873
GS<50 kW	21,858,575	21,858,575
GS>50 kW	68,558,740	68,558,740
Unmetered Scattered Load	121,104	121,104
Street Light	1,778,469	1,778,469
TOTAL	**133,478,344**	**133,303,760**

Board staff noted that the forecasting of load based on the NAC method was used by a number of 2008 EDR applicants. In the absence of load forecasts developed based on econometric analysis, the Board has accepted forecasts based on methods similar to the one proposed by NOW, provided the results are reasonable. Board staff concluded that, given the poor quality of the consumption data and the short period of available data, a more sophisticated approach may not produce results that are any more reliable than those proposed.

VECC submitted that it would be reasonable to accept NOW's proposed load forecast since NOW's proposed average use values varied by less than 2% from the historical averages. VECC indicated that this does not represent acceptance of NOW's weather normalization methodology.

In its reply submission, NOW admitted that the use of the NOW Factor was not the best approach to use for weather normalization but NOW stated that it was the best available option for this application. NOW provided a summary analysis confirming staff's observations that if the NOW Factor is removed from the weather normalized consumption, the impact is very minor ranging from +0.8% for the Residential class to -0.1% for the remaining classes.

In its reply submission, NOW also introduced a new adjustment to its load forecast for the Street Lighting class. NOW stated that it had completed the audit (identified in its initial application) to accurately identify the connection counts and the associated loads for the Street Lighting class. NOW stated that it was revising its application to account for these changes and had developed new proposed rates on this basis (as well as taking into account all other adjustments made throughout this proceeding). NOW stated that the result of the audit is a 12.3% reduction to the customer count (connections) and a 12.9% reduction to the demand. NOW reduced the associated kWhs by 12.9% from the original proposal of 1,778,469 to 1,549,046.

Board Findings

With the exception of the application of the so-called "NOW Factor" the Board accepts NOW's proposed load forecast as revised in response to VECC interrogatory #30. In filing its Draft Rate Order, NOW should use the load forecast as identified in VECC interrogatory #30 with an adjustment for the removal of the impact of the NOW factor. The Board has shown considerable flexibility in its acceptance of non-econometric forecasting methodologies, but introduction of the NOW Factor represents an unacceptable level of uncertainty and imprecision. The Company itself acknowledges that calculations underlying the adjustment are unknown. If NOW seeks to apply a system specific adjustment in the future, it needs to demonstrate with an appropriate level of care that the methodology is based on well identified, well understood, and well justified factors. The NOW Factor as applied in NOW's proposal does not meet this standard.

In terms of the late adjustment to the Street Lighting class, the Board notes that this constitutes new evidence, introduced in reply argument, when the evidentiary portion of the proceeding had concluded. Neither Board staff nor intervenors had an opportunity to respond to or test this adjustment. Accordingly, the Board does not accept NOW's adjustment to the Street Lighting class and directs NOW to remove this adjustment for purposes of preparing its Draft Rate Order.

OPERATING, MAINTENANCE and ADMINSTRATIVE EXPENSES ("OM&A")

The table below identifies the components of NOW's proposed OM&A expenses for 2009 and compares them with previous years.

Summary of OM&A	**2006 Board Approved**	**2006 Actual**	**2007 Actual**	**2008 Bridge**	**2009 Test**
Operation	$ 283,318	$ 294,145	$ 330,293	$ 501,464	$ 454,973
Maintenance	$ 97,013	$ 190,979	$ 210,169	$ 178,672	$ 184,032
Billing and Collection	$ 614,895	$ 513,423	$ 593,010	$ 731,823	$ 757,744
Community Relations	$ -	$ 20,250	$ 7,261	$ 1,545	$ 1,591
Administrative and General Expenses	$ 1,034,325	$ 887,779	$ 996,731	$ 908,850	$ 912,967
Total (as originally filed)	$ 2,029,551	$ 1,906,576	$ 2,137,464	$ 2,322,354	$ 2,311,307
Low Voltage Charge adjustment *	$ (225,270)	$ (115,000)	$ (225,207)	$ (225,207)	$ (219,054)
TOTAL OM& A (excluding Low Voltage)	**$ 1,804,281**	**$ 1,791,576**	**$ 1,912,257**	**$ 2,097,147**	**$ 2,092,253**
*** NOW in its final submission adjusted its 2009 OM&A by excluding Low Voltage; the source of the adjustment numbers for other years is the Board staff submssion.**					

The 2009 Total OM&A of $2,092,253 shows no increase over the 2008 bridge year and a 9.4% increase over 2007 actual.

During the proceeding NOW indicated that it would be revising its proposed 2009 OM&A in response to matters raised by the intervenors and Board staff and to reflect its own updated requirements. In its final submission NOW identified the following revisions:

2009 OM&A as filed:	**$2,092,253**
• Lineman Costs	$17,803
• Temporary Bill Staffing	($7,875)
• Superintendent Training	$20,000
• Contract Negotiation Consultant	$2,500
• Cost Awards	$2,675
• New Kapuskasing Building	($3,870)
• Other Interest	$81,276)
Final Submission 2009 OM&A	**$2,042,210**

In their submissions, Board staff, VECC and SEC raised concerns with respect to inflation, compensation, regulatory costs, other interest expense, tree trimming and rent.

Inflation

Both VECC and SEC questioned NOW's 3% inflation forecast for 2008 and 2009. Rather than basing the inflation forecast on the 3% year-over-year increase to July 2008, VECC proposed a lower rate, noting that the Bank of Canada reported that the actual year-over-year inflation in 2008 was 1.2% and the "January 2009 Monetary Policy Report Update" referenced the latest *Consensus Forecast* which called for a CPI increase of 0.7%. VECC submitted that the 2009 OM&A should be reduced by 2% or $40,000. SEC submitted that a reduction of $36,000 to OM&A was warranted given that 2008 inflation amounted to 1.2% and that forecasts for 2009 CPI are less than 1%.

While acknowledging that CPI[1] was 1.2% in 2008, NOW responded that other factors, such as labour wage settlements, the Ontario economy and the increased costs of doing business in northern Ontario, justify an inflation provision greater than 1.2%. NOW also noted that Board staff was comfortable with the Company's inflation adjustment proposal.

Board Findings

In the Board's view this parameter needs to be grounded in principle. The Board has adopted the Gross Domestic Product Implicit Price Index for Final Domestic Demand ("GDP-IPI") for application to the incentive rate mechanisms governing the gas utilities and the local electricity distribution utilities. The choice of this index was made after

[1] NOW, in its submission, used the acronym GDP

considerable input from interested stakeholders. In selecting it, the Board considered that it was, of all the alternatives, the most able to provide a reasonable reflection of the array of costs experienced by energy utilities.

On March 5, 2009 the Board announced that for the purposes of these incentive rate plans the applicable inflation rate would be 2.3%. This is the figure reported by Statistics Canada as the annual percentage change in GDP-IPI for 2008.

The Board adopts this rate for the purposes of the non-wage related components of this application. The Board will accept the 3% inflation effect for wages in light of the evidence regarding wage settlements and cost pressures in this area. Given NOW's evidence that $57,000 is attributable to inflation and the evidence that wages and compensation are about half the total OM&A, the Board finds that OM&A should be reduced by $9,000. This approximates the effect of reducing the inflation factor for non-wage items.

Employee Compensation and Staff Changes

VECC, SEC and Board staff raised three issues regarding NOW's compensation and staff related costs in the 2009 OM&A, as originally filed.

First, they noted that the 2009 OM&A included approximately $10,500 for temporary staff assistance to support the change to a new billing system. In that this was a non-recurring requirement, Board staff suggested that the funds could be used to offset any training costs associated with the hiring of a new Superintendent. Alternatively, VECC and SEC proposed amortizing the $10,500 over 4 years, thereby reducing the 2009 OM&A by $7,875. In its reply submission NOW accepted VECC's and SEC's proposed treatment and reduced its proposed 2009 OM&A by $7,875.

Second, Board staff, VECC and SEC identified concerns with NOW's request to increase its originally filed 2009 OM&A to cover costs for a recent wage settlement. NOW submitted that it needed a further $17,803 since the costs of the negotiated linesman wage settlement, which included addressing industry parity, exceeded the 3% provision for inflation. Board staff, VECC and SEC, questioned the stand-alone treatment for the linesman wage settlement. They submitted that, absent an itemized listing of forecasted inflation applicable to all the expense categories that comprise OM&A, there was little on the record to demonstrate that increases in wages over 3% would not be offset by instances where the inflationary impact was less than 3%.

Third, Board staff, VECC and SEC identified concerns with NOW's request for the training/early hiring of a new Superintendent. In its original 2009 OM&A, NOW did not include costs related to the training and early hiring of a new Superintendent. NOW later estimated this expense at $80,000 over 2009-2010 and proposed to increase its 2009 OM&A by $20,000, thereby recovering the $80,000 over the 2009-2012 period. Board staff and VECC noted the lack of certainty as to whether the Superintendent will be an internal or external hire, which in turn would affect the date of hiring, salary level and the requisite amount of training. While Board staff did not propose specific reductions, VECC and SEC proposed reductions to 2009 OM&A of $5,000 and $10,000 respectively.

In its response, NOW took the position that the expense of $80,000 was a conservative estimate of the various costs associated with attracting and training qualified candidates. NOW pointed out that only $20,000 of the $80,000 was included in the revenue requirement.

In its reply submission NOW also indicated that it needed to increase its 2009 OM&A request by $2,500 because the costs for the Contract Negotiations Consultant moved from 2008 to 2009. The $2,500 is the amortized portion of $10,000 in Consultant costs. NOW described the amortization as an attempt to ensure that NOW does not over collect this expense over the life cycle of the rate application.

Board Findings

The most important feature of the forward test year rate setting methodology is the establishment of a typical year in the operating and financial life of the utility. This "typical year" is the foundation of the process, against which a limited number of adjustments can be made. The permitted adjustments should take the form of cost or revenue items that are expected to recur throughout the expected life of the incentive rate mechanism, but are of such a nature that they cannot reasonably be thought to be reflected in the inflation factor, which is referenced above, or the productivity target.

In those instances where adjustments should be made, they can be incorporated into the general costs and revenue profile of the utility seamlessly, or where it is thought appropriate, amortized over the period of the incentive plan. This latter treatment has been adopted by the Board for the purposes of reflecting the regulatory costs incurred by the utility in its interactions with the Board.

The Board accepts the adjustment of $7,875 to 2009 OM&A accepted by NOW in its reply submission pertaining to Temporary Bill staffing.

The Company also seeks to include as a special adjustment the increased staffing costs associated with the settlement of its labour contract for linesmen.

The intervenors and Board staff resisted this claim on the grounds that the inflation factor applied to the Company's activities should capture and reflect such wage increases. In their view including this as a standalone adjustment amounts to double counting.

The Board agrees. The application of the inflation factor is intended to capture and adjust rates to account for increases (or decreases) in costs over the period of the incentive rate mechanism. To simply incorporate the wage settlement in the Company's rate structure would permit double counting of its effects, and would also eliminate any reasonable restraint on the contracting parties to arrive at settlements that reflect prevailing economic conditions, and which are not themselves inflationary. Accordingly the Board will reduce OM&A by $17,803 to remove that portion of the cost which exceeds the wage inflation estimate of 3%.

Third, NOW sought to include an amount for the training and early hiring of a superintendent. The idea is that the Company would hire a replacement of the current superintendent in advance of his or her retirement, so as to provide overlap, and on-the-job training. The total amount claimed for 2009 is $20,000, while the total cost over a multi-year period is expected to be $80,000.

The intervenors and Board staff do not object to the approach of including an amount in 2009 rates for this expense, but object to the amount claimed given the uncertainty as to how or when the new superintendent will be selected and the extent of training required. Given this lack of clarity respecting this transition, the Board will reduce the Company's claim to $10,000.

The Board notes the claim associated with costs associated with a Contract Negotiations Consultant arose for the first time in the course of the Company's reply argument. Introduction of claims at that stage is generally unsafe, in that it denies the rest of the parties any opportunity for comment. Absent special circumstances, claims made at this stage are very unlikely to be recognized. The Board denies this claim.

2009 Regulatory Costs

NOW indicated that it records its regulatory costs in two accounts, Account 5655 (Regulatory Expenses) and Account 5630 (Outside Services). In its reply submission NOW noted the need to increase its 2009 OM&A amount in Account 5655, by $2,675. $2,675 is the amount to be amortized in 2009, being one quarter of an estimated $15,000, for intervenor costs awards, less the amount already included in the 2009 OM&A as filed. On this basis the amount proposed for account 5655 would total $20,550 and would also include $16,000 for the Board’s quarterly assessment and $800 for the annual licence fee. NOW stated that its other regulatory costs pertaining to associated legal fees, management fees and consulting fees are recorded in OM&A account 5630. This account in 2009 OM&A totals $168,284 and provides for the following:

<u>A/C#5630-0000 - Outside Services</u>

- Legal Fees $ 10,000
- Actuarial Services $ 1,500
- EDA Membership $ 12,500
- ESA Contractor License $ 4 00
- Management Fees $ 94,884
- Audit Fees $ 22,500
- Consulting Fees – Regulatory (RDI) $ 24,000

Board Findings

NOW has reflected Regulatory costs in two Accounts, namely 5655 and 5630. It is clear that one entry in 5630, which reflects outside services, should be included in 5655. That entry relates to the services of RDI Consulting, in the amount of $24,000[2]. This item should be added to the balance in account 5655 and removed from account 5630.

The resulting balance in Account 5655 is $44,550. Of this, $40,800 relates to ongoing costs and $3,750 is a portion of the intervenor costs for the current proceeding. The Board accepts NOW’s proposal to amortize the incremental intervenor costs and accepts the amount of $2,675 as the appropriate amortized amount. The Board is also satisfied that the other items in Account 5630 are not Regulatory Costs and form part of the Company’s normal Operations and Management costs.

[2] Exhibit 4, Tab 2, Schedule 6, Table: Purchase of Services

Other Interest Expense

NOW included a number of items in its 2009 OM&A under Other Interest Expense, including $24,214 in Truck Loan interest; $50,943 in interest on Variance Accounts; and $6,119 in interest on Customer Deposits.

During the proceeding NOW agreed that the expense for the Truck Loan interest should be removed.

Board staff submitted that the interest expense associated with the variance accounts should also be removed because it would be inappropriate to recover interest charges payable on credit balances already owing to customers, and that recovering interest on debit balances through OM&A would be double counting. SEC and VECC agreed with this submission. VECC further submitted that the interest on customer deposits should also be removed because these monies are not included in the capital structure. NOW accepted these three adjustments in its reply submission.

Board Findings

The Board accepts the revisions proposed by intervenors and accepted by NOW in its reply submission. The Draft Rate Order should reflect these adjustments.

Tree Trimming Costs

NOW indicated that its 2008 OM&A included an increase of $10,000 for tree trimming but that $5,000 was non-recurring and had therefore been removed from the test year forecast. VECC submitted that the $5,000 should be removed from the 2009 OM&A, as originally proposed, but then pointed to an interrogatory response which appeared to indicate that this reduction had been reversed. In its reply submission NOW referred to its original filing and reiterated that, of the $10,000 increase, $5000 was non-recurring and $5,000 was an on-going expense and required in 2009.

Board Findings

NOW and VECC agree that of the $10,000 increase in the tree trimming budget, only $5000 should be reflected in rates and the other $5000 is non-recurring in nature and should be eliminated. Where the parties differ is whether this has been accomplished. NOW maintains that the adjustment has been made, but VECC points to evidence which suggests that the adjustment has been reversed. The Board accepts VECC’s interpretation of the evidence. The evidence is clear that the figure of $61,332 for non-recurring expenses includes only $5,000 for tree trimming and that therefore NOW’s adjustment of this figure down to only $56,332 represents a reversal of the $5,000 elimination. NOW is directed to correct and track this adjustment in the materials supporting its Draft Rate Order.

Rent Expense in 2009 Rates

VECC and SEC submitted that the provision in 2009 OM&A of $18,000 for a full year's rent on NOW's garage facilities should be reduced. VECC noted that the 2009 rate base includes a new building (the Kapuskasing Building) and that consistent with the half-year rule pertaining to recognition of an asset in rate base the rent provision should be reduced by half. SEC submitted that NOW should not have both the cost of the rental building in expenses and the replacement building in rate base at the same time.

NOW submitted that it will incur other types of OM&A costs totaling $12,840 annually for utilities, property taxes, insurance and maintenance and repairs, all associated with building ownership. Given current rental costs of $18,000, NOW agreed to reduce its 2009 OM&A by $3,870. NOW calculated the $3,870 by multiplying the annual savings by three years and dividing the product by 4 (the rate setting years 2009-2012).

Board Findings

The Board accepts NOW's position that there will be a transition phase during which both buildings will be in use. The Company has suggested that the transition phase may well not conclude until the very end of 2009. However, beyond that point, the ongoing costs of the new facility will be lower than the rent currently paid. Accordingly, the Board will permit inclusion of the full year's rent in OM&A with the reduction for ongoing savings as proposed by NOW.

PAYMENTS IN LIEU OF TAXES ("PILs")

In the original application, NOW proposed a 2009 PILs allowance of $60,503. Board staff and VECC questioned NOW's inclusion of additions for deemed interest expense ($156, 466) and deduction of actual interest expense ($105,262). NOW stated that these adjustments were made to align the PILs allowance to the actual taxes/PILs filings, which do use the actual interest expense.

Board staff submitted that NOW's proposal was inconsistent with the Board's policy and practice which does not allow for the addition and deduction of deemed and actual interest expense respectively. SEC and VECC supported staff's submission. In addition, VECC submitted that NOW's PILs allowance should be updated to reflect the

Capital Cost Allowance rates for recent computer additions, in accordance with recent Federal Government budgets.

In its reply submission, NOW stated that it has made the adjustments recommended by Board staff and intervenors. NOW estimated a revised PILs allowance of $38,761.

Board Findings

The Board approves NOW's methodology, as outlined in the reply submission and with the adjustments suggested by intervenors and Board staff, and adopted by NOW. In filing its Draft Rate Order, NOW should incorporate all other known income and capital tax changes into its PILs calculations for 2009 that have arisen since the application was filed.

The Board notes that NOW, in its reply submission, has not provided the derivation of the revised PILs allowance of $38,761. The PILs allowance may change subject to the Board's findings on other matters in this Decision. NOW should provide, as part of its Draft Rate Order filing, details of the calculation of the PILs allowance.

CAPITAL EXPENDITURES AND RATE BASE

Rate Base

NOW is requesting approval of $5.4 million for its 2009 rate base. This amount is a 3.5% increase ($187,231) from NOW's 2007 actuals and a 0.98% increase ($53,081) from its 2006 actuals.

No parties made submissions directly on NOW's rate base. Instead, issues and submissions were directed at the following components which collectively determine the rate base:

- Capital Expenditures; and
- Working Capital Allowance.

Submissions were also made with respect to Assessment of Asset Conditions and Asset Management.

Capital Expenditures

The table below lists the percentage change of the capital expenditures from the 2007 actual to the 2009 test year.

Changes in Capital Expenditures from 2007-2009[3]

	2007 Actual	2008 Bridge	2009 Test
Capital Expenditures	$404,275	$615,215	$391,000
% change as compared to the prior year		52.2%	(36.4%)

Spending for smart meters is not included in the 2008 or 2009 capital expenditures.

NOW provided the following information on historical capital expenditures:

Northern Ontario Wires' Capital Expenditures

Year		Capital Expenditures	Annual Depreciation Expense	Capex / Depreciation
2003		$ 63,390	$ 371,004	17.1%
2004		$ 113,179	$ 372,597	30.4%
2005		$ 167,266	$ 363,348	46.0%
2006		$ 183,655	$ 329,835	55.7%
2007		$ 404,275	$ 337,216	119.9%
2008	bridge	$ 615,250	$ 363,270	169.4%
2009	forecast	$ 391,000	$ 404,740	96.6%
Total		**$ 1,938,015**	**$ 2,542,010**	**76.2%**

NOW explained that its under-spending in prior years is partially accounted for by transition costs and under-earning.

NOW's capital expenditures in 2007 and 2008 were higher than historical levels largely due to the purchase of specialized vehicles. In each of those years, NOW's capital expenditures on vehicles and rolling stock exceeded $220,000.

In general, parties did not oppose NOW's proposed capital budget for 2009. SEC and VECC did raise concerns about the inclusion of both the Kapuskasing building in rate

[3] Based on Exhibit 2/Tab 3/Schedule 1

base and the full year's rent for the current facilities. That issue has been addressed in the OM&A section above.

Board Findings

The Board finds NOW's proposed capital expenditures to be reasonable.

Assessment of Asset Conditions and Asset Management Plan

In terms of asset planning, NOW indicated that it reviews capital projects and expenditures for a three year period with the exception of smart meters for which NOW develops a five year capital budget. NOW's asset planning is based on in-house assessments of NOW's assets to determine upgrade or replacement requirements. NOW's assessment typically includes a review of system or equipment condition, reliability, efficiency and safety, as well as performing a cost benefit analysis when appropriate. NOW indicated that in 2006, as part of its CDM plan, it used a study conducted by EnerSpectrum Group on NOW's system losses to identify and prioritize capital projects.

In its submission, Board staff stated:

> *The Board may wish to consider whether or not NOW's three year planning horizon is adequate to justify NOW's current system needs in light of the historical under-spending. Staff submits that requiring NOW to develop a more robust and long-term capital plan to reflect NOW's new "pro-active" approach and provide insight into NOW's future system needs, will enable the Board to better assess NOW's future rate applications.*[4]

VECC and SEC supported Board staff's proposal that a longer-term and more robust capital plan or asset management plan may be appropriate and necessary to address NOW's system re-investment, particularly in light of historical under-investment. NOW did not address this issue in its reply submission.

Board Findings

The Board believes that asset condition assessments and asset management plans are an important component of operating, maintenance, and capital expenditure proposals,

[4] Board staff submission, February 11, 2009, p. 4

particularly when significant expenditures are contemplated. However, the Board also recognizes that work in this area must take account of the particular circumstances of the utility.

The Board is generally satisfied that the Company has developed an approach to asset management that is appropriate for its circumstances. It is important, however, to ensure that this level of diligence is maintained and, to the extent dictated by circumstances, improved. Accordingly, the Board directs the Company to update its asset condition assessment and asset management plan in time for its next rebasing. At that time the Board will expect to see a comprehensive profile of the state of the Company's equipment and its detailed plans for maintenance, enhancement and replacement of its plant.

Working Capital

NOW proposed a working capital allowance ("WCA") of $1,721,472, based on the standard Board methodology of 15% of the sum of Cost of Power and controllable expenses. NOW also confirmed that, for the purposes of determining its 2009 distribution rates, the WCA would be updated to reflect the current retail transmission service rates and the RPP commodity estimate available at the time of the Board's decision.

VECC noted that NOW had not updated its WCA calculation to reflect the January 2009 uniform transmission rate increase. VECC also suggested that the Board should work with the IESO and distributors to determine what commodity price should be factored into the determination of the Cost of Power for calculating the WCA.

In its reply submission, NOW provided a revised WCA reflecting increases in Retail Transmission – Network costs of 11.26% and Retail Transmission – Connection costs of 5.45% based on the January 2009 rate changes. Other changes will be made at the time of rate approval. The revised WCA estimate is $1,694,431, a reduction of $27,041 from the original application.

Board Findings

The Board approves NOW's methodology for calculating the WCA. The Board concludes that the most accurate data should be used in the calculation of working capital and notes that NOW adopts this approach. The Board views the RPP as a reasonable proxy for the commodity price and does not intend on undertaking any initiatives to refine the approach used in determining the WCA at this time. The Board directs NOW to update the cost of power to reflect the price contained in the April 2009 RPP price report, $0.06072/kWh. With respect to the level of low voltage and retail transmission service rates to be used in the calculation, the Board will address these matters later in this Decision under Low Voltage Costs and Retail Transmission Service Rates.

COST OF CAPITAL and CAPITAL STRUCTURE

On December 20, 2006, the Board issued the *Report of the Board on Cost of Capital and 2nd Generation Incentive Regulation for Ontario's Electricity Distributors* (the "Board Report"). The Board Report provides the Board's policy guidelines for determining the capitalization and cost of capital to be used for electricity rate-setting.

NOW's proposals for capital structure and cost of capital are summarized in the following table.

Cost of Capital Parameter	NOW's Proposal
Capital Structure	56.7% debt (composed of 52.7% long-term debt and 4.0% short-term debt) and 43.3% equity
Short-Term Debt	4.47%, but to be updated in accordance with section 2.2.2 of the Board Report, as confirmed in response to Board staff IR #18.
Long-Term Debt	5.04%, as a weighted average of several third-party debt instruments at rates of 4.80% and 5.75%
Return on Equity	8.68%, but to be updated in accordance with the methodology in Appendix B of the Board Report.
Return on Preference Shares	Not applicable
Weighted Average Cost of Capital	6.59% as proposed, but subject to change as the short-term debt rate and ROE are updated per the Board Report at the time of the Board's Decision.

As noted, NOW has affirmed that the Return on Equity, deemed Short-term Debt Rate and deemed Long-Term Debt Rate would be updated based on Bank of Canada, *Consensus Forecasts*, and TSX data for January 2009 in accordance with the methodologies documented in the Board Report.

On February 24, 2009, the Board issued a letter documenting the updated Cost of Capital parameters to be used in determining distribution rates for 2009 Cost of Service applications. The updated Cost of Capital parameters are set out in the following table:

Cost of Capital Parameter	**Updated Value for 2009 Cost of Service Applications**
Return on Equity	8.01%
Deemed Long-term Debt Rate	7.62%
Deemed Short-term Debt Rate	1.33%

VECC submitted that NOW's proposal was in accordance with the Board's Report and should be accepted. In its reply, NOW acknowledged the updated Cost of Capital parameters announced by the Board on February 24, 2009, but affirmed that its long-term debt rate is based on its actual, embedded debt. In its reply, NOW identified a long-term debt rate of 5.10%, which is inconsistent with the rate of 5.04% documented elsewhere in the application and in responses to interrogatories. No explanation for this difference was provided.

Board Findings

The Board finds that NOW's proposed capitalization and Cost of Capital is consistent with the guidelines established in the Board Report. Accordingly, the Board finds that NOW's 2009 distribution rates will be based on a deemed capital structure of 56.7% debt (52.7% long-term; 4% short-term) and 43.3% equity, in accordance with the Board's established transition process. The Board will allow NOW's embedded cost of debt at 5.04% as documented in the application; the 5.10% reflected in NOW's reply submission was not supported or tested on the record.

The table below sets out the Board's conclusions for NOW's deemed capital structure and Cost of Capital.

Board-approved 2009 Capital Structure and Cost of Capital

Capital Component	% of Total Capital Structure	Cost rate (%)
Long-Term Debt	52.7	5.04
Short-Term Debt	4.00	1.33
Equity	43.3	8.01
Weighted Average Cost of Capital		**6.18**

COST ALLOCATION AND RATE DESIGN

The following issues are addressed in this section:

- Line Losses
- Low Voltage Costs
- Revenue to Cost Ratios
- Rate Design
- Retail Transmission Rates
- Deferral and Variance Accounts

Line Losses

NOW proposed a total loss factor ("TLF") of 1.0433 for 2009, based on a supply facilities loss factor ("SFLF") of 1.0045 and a distribution loss factor ("DLF") of 1.0386. The latter is based on average actual DLF over three years (2005-2007).

Board staff submitted that NOW should clarify its evidence regarding the SFLF. Staff indicated that as an embedded distributor NOW should use one of the approved TLF's at embedded delivery points for Hydro One (either 1.034 for metering away from station or 1.006 for metering at station). In its reply submission, NOW accepted that it should use an SFLF of 1.0060. NOW's DLF remained unchanged from its application, and the resulting TLF is 1.0448 for secondary-metered customers below 5000 kW. NOW also submitted TLFs for larger customers and primary-metered customers.

Board Findings

The Board finds that NOW's TLFs as set out in its reply submission are appropriate. The total loss factors are:

Secondary metered < 5000 kW	1.0448
Secondary metered > 5000 kW	1.0181
Primary metered < 5000 kW	1.0344
Primary metered > 5000 kW	1.0060

Low Voltage Costs

NOW provided a calculation of its cost for Low Voltage ("LV") services from its host distributor of $149,845, based on rates proposed by Hydro One in EB-2007-0681. VECC submitted that the cost should be revised to reflect the rates actually approved in that case, which are lower. Board staff agreed with VECC, but submitted that the cost should be further revised for Hydro One's application for rates effective May 1, 2009, which are higher than those approved but still lower than those used in the application. NOW submitted that any variance could be tracked through the LV variance account, and did not submit a revised forecast.

In its application NOW included LV costs in its OM&A costs. VECC submitted that LV costs should be separated from OM&A and reported as a separate item. In VECC's view this would ensure that it is properly excluded from the cost allocation model. In its reply submission, NOW confirmed that LV costs have been removed from OM&A, while remaining in the calculation of working capital.

In its application NOW allocated its LV costs along with other distribution costs. Board staff and VECC submitted that the costs should be allocated in proportion to revenue from the Retail Transmission Connection rates. NOW provided these proportions based on its forecast of its revenues from the transmission rates in response to VECC interrogatory #31 c). Board staff submitted that the forecast revenues should be used to allocate the costs, while NOW argued that a two-year average of actual revenues would be more accurate.

NOW submitted rate adders for each class, based on the forecast cost of $149,845 allocated in proportion to its actual revenues in 2007 and 2008.

Board Findings

While the Board accepts NOW's argument that the LV variance account will correct for disparities between 2009 costs and revenues, it is the Board's view that NOW should use the most up-to-date approved LV values in determining its forecast cost. The Board also notes that effective February 1, 2009, Hydro One includes a substantial rate rider credit which will continue for two years, whereas the LV rate adder being established in this proceeding will likely be in place for the four years of the 3rd Generation IRM process. Therefore, in its Draft Rate Order, NOW should provide an updated forecast based on the Hydro One LV rates approved in EB-2007-0681, including the effect of Rider # 4 at one-half of its annual value.

With respect to the allocation of LV costs, the Board notes that the usual practice in a future test year application is for the LV costs to be allocated based on forecasted Transmission Connection revenues. The Board finds that this is the appropriate approach in this case as well.[5] However, the Transmission Connection revenue forecast will need to be updated as a result of other findings in this Decision in any event. The Board directs NOW to develop the appropriate LV rate adders based on forecast Transmission Connection revenues and to provide the relevant supporting information with its Draft Rate Order.

Revenue to Cost Ratios

The following table sets out NOW's current and proposed revenue to cost ratios. Columns 2 and 3 are representative of the existing ratios – column 2 using the model distributed by the Board for the Informational Filing and column 3 a variation on the Informational Filing which excludes the $49,317 cost of the Transformer Ownership Allowance. VECC submitted that the resulting ratios are a more appropriate reference point than the initial Informational Filing. Board staff also submitted that the final rate structure should be based on a cost allocation study with these factors removed from consideration. The ratios proposed by NOW are in column 4. The Board's policy ranges, as established in the Board Report, *Application of Cost Allocation for Electricity Distributors,* EB-2007-0667, are set out in column 5.

[5] The Board notes that NOW provided additional material in its reply submission which was inconsistent with the information already on the record; the Board will not rely upon the additional information. As noted previously in this Decision, the proper time for the submission of evidence is prior to argument to provide intervenors and Board staff with the opportunity to test or to comment upon the evidence, should they chose to do so.

Revenue to Cost Ratios

1	2	3	4	5
Customer Class	**Informational Filing EB-2007-0003 Run 2**	**Response to VECC IR # 19**	**Exhibit 8 / Tab 1 / Schedule 2 / p. 2**	**Board Policy Range**
Residential	97.92	99.80	102.76	85 – 115 %
GS < 50 kW	107.25	108.58	102.76	80 – 120 %
GS > 50 kW	162.28	141.06	102.76	80 – 180 %
Street Lights	26.02	27.98	70.00	70 – 120 %
USL	127.53	132.74	102.76	80 – 120 %

Board staff submitted that the rebalancing approach proposed by NOW, which is designed to achieve identical revenue to cost ratios for all classes except Street Lighting, is not the predominant pattern that has been approved by the Board. However, staff noted that a similar proposal was approved by the Board for Erie Thames Powerlines in 2008 (EB-2007-0928).

VECC opposed the rebalancing proposed by NOW. VECC noted that NOW's approach assumes in effect that the cost allocation model is accurate and that a ratio very near to unity has particular merit for every class (except for Street Lighting). VECC submitted that the Board should direct NOW to rebalance its revenue to cost ratios in the pattern of the preponderant number of applications to date, and it summarized a number of Board decisions as examples. In VECC's view, the additional revenue generated by the increased Street Lighting ratio should be used initially to get the ratio of USL down to the boundary of its range (i.e.120%), and after that to decrease the ratio of the GS > 50 kW class (which is within range but has the highest ratio of the classes). In addition, VECC noted that the predominant pattern may have ratios move toward 100% from within the range, but not necessarily to move from below 100% to above 100% as NOW is proposing for the Residential class.

VECC also disagreed with the revenue to cost ratio proposed for the Street Lighting class. VECC submitted that in virtually all past cases, where a significant increase was required, the Board directed that the value be increased half way to the lower end of the Board's recommended range. VECC therefore submitted that the appropriate ratio for the Street Lighting class is 48.99% for 2009. SEC agreed with NOW's proposal to increase Street Lighting rates in order to yield a ratio of 70% and that this should be implemented without any phase-in period. However SEC submitted that during the following IRM period the rates should be increased to move the ratio in steps to100%.

VECC submitted that the relative loads and revenues of NOW's rate classes have changed since the Informational Filing. The extent of the change can be demonstrated by contrasting the revenue shares in 2006 to what the revenue shares would be if the forecast loads were multiplied by the currently approved rates. The respective shares of the GS < 50 kW class and the USL class would decrease in this approach, and the other classes would increase, relative to their respective 2006 shares. Using these updated shares would enable a more accurate set of targets for re-balancing revenues.

On a related matter, in response to an interrogatory[6], NOW responded that the number of USL connections in the cost allocation model is 48, based on 2002-2004 data, but the number now is 15. NOW stated that it was unable to correct the cost allocation study for this application. To attain the proposed revenue-to-cost ratio, NOW proposed that the volumetric rate for USL be increased from $0.0102 to $0.0356 per kWh, and that this is the major factor that causes a projected 29% bill increase for USL customers. Staff submitted that it might be preferable to simply disregard the cost allocation results for this class for this re-basing.

Overall, NOW did not disagree with any of the submissions of the other parties, stating that it is willing to implement the cost allocation deemed appropriate by the Board, insisting only that the ratio of total distribution revenue to total distribution revenue requirement should reconcile to 100%.

[6] Board staff interrogatory #39

Board Findings

The Board finds that the Company's proposal is acceptable. The migration of the ratio for all customer classes other than Street Lighting to a common number (102.76%) does not offend any aspect of Board policy. As VECC has pointed out, unity per se at this stage of our experience in cost allocation is not a goal. Allowing the ratios to migrate above unity serves the important purpose in this case of mitigating, in a modest way, the implications of the fairly aggressive movement proposed for the Street Lighting class. The Board notes that the movement of the Street Lighting class to a 70% ratio is consistent with Board policy, although the Board, in some cases, has permitted this transition to be made in steps rather than all at once. Here, the Company, presumably with the full knowledge and support of its shareholders who are its Street Lighting customers, proposes a one-step transition to the bottom of the target range. This is acceptable.

The Board accepts that the initial reference point to describe NOW's existing revenue-to-cost ratios will be the version in which Transformer Ownership Allowance is removed from revenues and costs. The Board appreciates that VECC's argument may have theoretical merit insofar as further fine adjustments might be reflected in the class revenue shares, but the Board finds that it will not require NOW to refine its proposal beyond this change. It is the Board's view that an adjustment for the purposes of updating the revenue shares would not be appropriate in the absence of updating other cost allocation factors such as cost drivers.

The Board recognizes SEC's argument with respect to the value associated with the establishment of revenue to cost ratios at unity. As has been highlighted before, the Board does not ascribe such accuracy to the ratios. It has approved a ratio of 70% for Street Lighting for a considerable number of distributors that will remain at this level until the end of the IRM period, including Erie Thames whose proposed ratios resembled those in NOW's application.

Rate Design – Monthly Service Charges

NOW has proposed rate adjustments in which the Monthly Service Charges change by a smaller percentage than the volumetric charges. This would have the effect of decreasing the ratio of fixed to variable revenue ("F:V") for the Residential and GS < 50 kW classes. For the GS >50 kW class, the same approach has the effect of increasing the F:V because the Monthly Service Charge is decreased by 1.9% and the volumetric rate is decreased by 54.0%.

Board staff submitted that the Monthly Service Charge for the GS > 50 kW class is higher than the ceiling from the Informational Filing, and that it should be reduced by the same percentage as the volumetric rate. No other parties made submissions on this matter.

Board Findings

The Board finds that the F:V proportions that result from NOW's proposed rates are acceptable for all classes. In the particular case of the GS >50 kW class, the ceiling would have likely increased if the cost allocation study had been updated for the 2009 revenue requirement, and the proposed Monthly Service Charge is decreasing, so it appears that the disparity must be decreasing. The Board finds the proposed rate structure to be reasonable for purposes of this rebasing application.

Rate Design – Unmetered Scattered Load

As noted above, the revenue-to-cost ratio for the USL class is based on a customer count that is more than triple the current number. Board staff suggested that it might be preferable to simply disregard the cost allocation results for this class for this re-basing, and to increase the rates to USL by the same proportions as the GS<50 kW class. NOW did not address this point in its reply submission.

Board Findings

The Board directs NOW to calculate a uniform volumetric rate for the GS < 50 kW class and the USL class. The Monthly Service Charges may differ from each other, as has been proposed by NOW. The decreased revenue due to the reduction in the USL volumetric rate may instead be recovered from the Monthly Service Charges of the two classes together and both rates for each class should be re-calculated and submitted in the Draft Rate Order.

Other Rate Design

NOW's proposed Specific Service Charges and Transformer Ownership Allowance are unchanged from the currently approved amounts. There were no submissions on the proposed charges or on the revenue offset that results from the charges.

Board staff noted that there is a provision in NOW's Conditions of Service for a $2,000 administrative fee for "Unauthorized Energy Use" that is not included on the proposed

2009 Tariff sheet. In response to Board staff interrogatory #33, NOW indicated that this was an omission.

Board Findings

The Board notes that NOW did not include the Unauthorized Energy Use charge on its proposed Tariff for 2009. As a result, no information was provided by NOW to support the level of the charge. The Board reminds NOW that any rates or charges that it plans on applying for services rendered to customers require Board approval. Accordingly, the Board does not approve this fee at this time. This charge, with appropriate supporting evidence, may be introduced for consideration at the time of the next rate application. The Board notes that the evidence indicates that this charge has never been applied and so the revenues associated with this charge for 2002-2007 are nil.

Retail Transmission Service ("RTS") Rates

As an embedded distributor NOW's transmission costs are determined by the RTS rates of its host distributor, Hydro One. In its initial application, NOW applied to continue its current RTS rates which had been approved effective May 1, 2008. Those rates mirrored the change in Hydro One's interim rates that became effective at that time and have since been approved as final rates.

The Board issued a guideline, *Electricity Distribution Retail Transmission Service Rates [G-2008-0001]* on October 22, 2008 indicating the process to be used to adjust RTS rates to reflect changes in the Ontario Uniform Transmission ("UT") rates. The changes in the UT rates are shown in the following table.

Uniform Transmission Rates

	Current Rate ($/kW/month)	**Effective rate on January 1, 2009 ($/kW/month)**	**Effective increase**
Network Service Rate (NW)	2.31	2.57	11.3%
Line Connection Service Rate (CN)	0.59	0.70	18.6%
Transformation Connection Service Rate (TN)	1.61	1.62	0.6%

NOW provided RTS rates that would mirror the change in the UT rates. Hydro One has a current application before the Board for RTS rates for its Sub-Transmission class that are proposed to be adjusted in these same proportions, to be effective May 1, 2009.

Board staff noted that there is a positive balance in the associated variance accounts, which is due to an established pattern of over-collection through NOW's RTS rates. NOW provided an analysis of its expenses and revenues, finding a 6% over-recovery for the Network charges and a 7% over-recovery for the Connection charges for the periods January to December 2007 and January to September 2008.

NOW expressed its misgivings about the accuracy of using a discrepancy calculated over this period as an indicator for an adjustment. Nevertheless, NOW submitted that it would not be opposed to a 5% reduction to correct for the tendency for over-collection in the prior years.

NOW submitted a set of RTS rates in its reply argument that are adjusted from its currently approved RTS rates, first by the percentage change of the UT rates, and then reduced by 5%. VECC and Board staff indicated that they supported NOW's revised proposal for its RTS rates.

Board Findings

The Board finds that NOW's proposal is acceptable.

DEFERRAL AND VARIANCE ACCOUNTS

NOW did not propose to dispose of any deferral or variance account balances in this application.

The following table sets out the account balances that NOW submitted in response to a Board staff interrogatory. The balances represent the December 31, 2007 year end plus interest to April 30, 2009.

Deferral and Variance Accounts

ACCOUNT	ACCOUNT NAME	BALANCE $
1508	Other Regulatory Assets	84,988
1518	RCVA – Retail	(22,047)
1525	Miscellaneous Deferred Debits	4,679
1548	RCVA – STR	15,618
1550	LV Variance	(39,960)
1562	Deferred Payments in Lieu of Taxes	107,234
1563	Deferred PILs Contra Account	(107,234)
1571	Pre-Market Opening Energy Variance	50,975
1580	RSVA – Wholesale Market Service Charge	(296,878)
1582	RSVA – One Time Wholesale Market Service	10,739
1584	RSVA – Retail Transmission Network Charges	(87,347)
1586	RSVA – Retail Transmission Connection Charge	(1,431,220)
1588	RSVA – Power	1,037,142
TOTAL		(673,311)
1590	Recovery of Regulatory Asset Balances	642,396

Board staff noted that the balances in the RSVA and Low Voltage accounts total approximately 28% of the proposed revenue requirement for 2009. Board staff submitted that the Board may wish to consider disposition of these balances rather than waiting for the separate initiative announced by the Board in February 2008 that would undertake to review the commodity accounts and other related RSVAs and RCVAs. Board staff noted that, in the past, the Board has disposed of extraordinarily large balances.

The entire balance in Account 1571 is the result of NOW's earlier omission of interest that was allowed by the Board in the Regulatory Assets decision in 2004. Board staff submitted that the balance in Account 1571 should not be considered for disposition because it is out-of-period. SEC and VECC agreed with Board staff's submission. Board staff cited two Board Decisions, one in which an error that was discovered later was disallowed and one in which the correction for an error was allowed, and expressed the view that the former is more applicable to NOW's circumstances. NOW submitted that it is inequitable to allow for corrections when the outcome is a rebate to customers while disallowing an error that would be recovered from customers. NOW requested that the amount still be considered for disposition.

Board Findings

The Board agrees with Board staff and intervenors in that the claimed amount for account 1571 is out of period. The amount is a result of an error on the part of NOW, and the Board agrees that allowing disposition at such a late stage would constitute retroactive ratemaking. This amount is disallowed.

Notwithstanding the announcement of the separate initiative on February 19, 2008, the Board notes that it will be some time before that process is completed. The Board also notes Board staff's submission regarding the large balances in the RSVAs and agrees that these amounts should be disposed at this time. However, the Board finds it appropriate to also dispose of all remaining accounts except for the two PILS accounts (which are subject to a review in a separate proceeding), account 1590 (as the Board has typically not disposed of this account until such time as the final balance can be verified) and account 1571.

It has been the Board's practice to dispose of only the most recently audited balances plus interest to the beginning of the rate year. Accordingly, the Board shall dispose of the applicable balances in the table above based on rate riders calculated over a four year recovery period. In response to a Board staff interrogatory[7], NOW proposed a four year recovery period where the total balance is a credit of approximately $655,000. With the removal of account 1571 and account 1590, the total balance approved for disposition is a credit of $622,335. The two amounts are not significantly different.

The Board directs NOW to include documentation in its Draft Rate Order, based on a table similar to its response to Board staff supplemental interrogatory #11e), which shows the allocation of each account to each rate class and the length of the recovery period.

[7] Board staff supplemental interrogatory #11

SMART METERS

In its original application, NOW made no proposal with respect to continuing or changing its existing smart meter funding adder of $0.26 per month per metered customer. In response to interrogatories posed by Board staff and intervenors, NOW proposed that its smart meter funding adder be increased to $1.00 per month per metered customer.

The basis for the request is that on June 25, 2008, the Government of Ontario filed amendments to three smart metering regulations: O. Reg. 427/06 (Smart Meters: Discretionary Metering and Procurement Principles); O. Reg. 426/06 (Smart Meters: Cost Recovery); and O. Reg. 393/07 (Designation of Smart Metering Entity). NOW stated that it qualified for the increased adder since amendments to O. Reg. 427/06 will authorize metering activities for distributors pursuant to and compliant with the *Request for Proposal (RFP) for Advanced Metering Infrastructure (AMI) – Phase 1 Smart Meter Deployment* issued on August 14, 2007 by London Hydro Inc.

On October 22, 2008, the Board issued its Guideline G-2008-0002, *Smart Meter Funding and Cost Recovery*. Guideline G-2008-0002 outlines requirements for applicants wishing to request a $1.00 smart meter funding adder. The Board noted that the standard $1.00 funding adder would provide funding for distributors that are authorized and clearly intend to install smart meters in the test year. Guideline G-2008-0002 established informational requirements to be provided in support of a request for an increased smart meter funding adder of $1.00 per month per metered customer.

NOW indicated that it intends to install approximately 6,140 meters during the test year at an estimated cost per meter of $239.12 and total cost of $1,468,196. NOW has estimated that it will fully deploy smart meters in 2009.

NOW has not included any capital costs for smart meters in its rate base, nor is it including operating expenses related to smart meters in its revenue requirement. Smart meter funding adders and capital and operating costs related to smart meters will continue to be recorded in established deferral accounts 1555 and 1556, for review and disposition in a future application.

Board staff and SEC made no submission on NOW's proposal for smart meters, while VECC supported NOW's proposal.

Board Findings

In 2008 distribution rate applications, the Board considered it appropriate to permit a number of applicant distributors not then authorized to deploy smart meters to collect an increased amount by way of the smart meter rate adder in anticipation of that authorization forthcoming through legislation or regulation. In the Board's view, increasing the rate adder to $1.00 per meter going forward would provide applicant distributors with funds to support initial rollout and avoid rate shock upon completion of smart meter deployment.

The Board issued Guideline G-2008-0002 to provide guidance to distributors to assist in facilitating implementation of smart meters when a distributor becomes authorized, and aid in the review of smart meter funding and cost recovery. The Board finds that NOW has complied with legislation and with the Board's Guideline G-2008-0002, and so approves an increased smart meter funding adder of $1.00 per month per metered customer. In so finding, the Board makes no determination of the prudence and reasonableness of NOW's estimated smart meter costs, which will be reviewed in a future application when NOW applies for disposition of the smart meter account balances.

IMPLEMENTATION

The Board has made findings in this Decision which change the 2009 distribution rates from those proposed by NOW. These changes are to be reflected in a Draft Rate Order prepared by NOW.

The Board issued an Interim Rate Order on April 14, 2009 making NOW's current rates interim, which allows for an effective date as early as May 1, 2009. As NOW was not late in filing its application, the Board has determined that an effective date as of May 1, 2009 is appropriate.

In filing its Draft Rate Order, it is the Board's expectation that NOW will not use a calculation of the revised revenue deficiency to reconcile the new distribution rates with the Board's findings in this Decision. Rather, the Board expects NOW to file detailed supporting material, including all relevant calculations showing the impact of this Decision on NOW's proposed revenue requirement, the allocation of the approved revenue requirement to the classes and the determination of the final rates. Supporting documentation shall include, but not be limited to, filing a completed version of the Revenue Requirement Work Form excel spreadsheet, which can be found on the

Board's website. NOW should also show detailed calculations of the revised low voltage rate adders, retail transmission service rates and variance account rate riders reflecting this Decision.

RATE ORDER

A Rate Order decision will be issued after the processes set out below are completed.

COST AWARDS

The Board may grant cost awards to eligible stakeholders pursuant to its power under section 30 of the *Ontario Energy Board Act, 1998*. The Board will determine eligibility for costs in accordance with its Practice Direction on Cost Awards. When determining the amount of the cost awards, the Board will apply the principles set out in section 5 of the Board's Practice Direction on Cost Awards. The maximum hourly rates set out in the Board's Cost Awards Tariff will also be applied.

All filings with the Board must quote the file number EB-2008-0238, and be made through the Board's web portal at www.errr.oeb.gov.on.ca, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must be received by the Board by 4:45 p.m. on the stated date. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.oeb.gov.on.ca. If the web portal is not available you may e-mail your documents to the attention of the Board Secretary at BoardSec@oeb.gov.on.ca. All other filings not filed via the Board's web portal should be filed in accordance with the Board's Practice Directions on Cost Awards.

THE BOARD DIRECTS THAT:

1. NOW shall file with the Board, and shall also forward to 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 including the Revenue Requirement Work Form in Microsoft Excel format.

2. Intervenors shall file any comments on the Draft Rate Order with the Board and forward to NOW within 7 days of the date of filing of the Draft Rate Order

3. NOW shall file with the Board and forward to intervenors responses to any comments on its Draft Rate Order within 7 days of the date of receipt of Intervenor submissions.

4. Intervenors shall file with the Board, and forward to NOW, their respective cost claims within 30 days from the date of this Decision.

5. NOW shall file with the Board and forward to intervenors any objections to the claimed costs within 44 days from the date of this Decision.

6. Intervenors shall file with the Board and forward to NOW any responses to any objections for cost claims within 51 days of the date of this Decision.

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

DATED at Toronto, April 22, 2009

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary