



EB-2011- 0152

**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 Algoma  
Power Inc. for an order approving just and reasonable  
rates and other charges for electricity distribution to be  
effective January 1, 2012.

**BEFORE:** Karen Taylor  
Presiding Member

Paula Conboy  
Member

## DECISION AND ORDER

### Introduction

Algoma Power Inc. (“Algoma”), a licensed distributor of electricity, filed an application with the Ontario Energy Board (the “Board”) on September 15, 2011, and an amended application on October 13, 2011 under section 78 of the *Ontario Energy Board Act*, 1998, S.O. 1998, c. 15, (Schedule B), seeking approval for changes to the rates that Algoma charges for electricity distribution, to be effective January 1, 2012.

Algoma is one of 77 electricity distributors in Ontario regulated by the Board. The *Report of the Board on 3<sup>rd</sup> Generation Incentive Regulation for Ontario’s Electricity Distributors* (the “IR Report”), issued on July 14, 2008, establishes a three year plan term for 3<sup>rd</sup> generation incentive regulation (“IR”) (i.e., rebasing plus three years). In its October 27, 2010 letter regarding the development of a Renewed Regulatory Framework for Electricity (“RRFE”), the Board announced that it was extending the 3<sup>rd</sup>

generation IR plan until such time as the RRFE policy initiatives have been substantially completed. As part of the plan, Algoma is one of the electricity distributors that will have its rates adjusted for 2012 on the basis of the IRM process, which provides for a mechanistic and formulaic adjustment to distribution rates and charges between cost of service applications. However, as a result of the Ontario Regulation 442/01 which applies to Algoma, the company's resulting rates will also reflect the impact of the Rural or Remote Electricity Rate Protection ("RRRP").

To streamline the process for the approval of distribution rates and charges for distributors, the Board issued its *Report of the Board on 3<sup>rd</sup> Generation Incentive Regulation for Ontario's Electricity Distributors* on July 14, 2008, its *Supplemental Report of the Board on 3<sup>rd</sup> Generation Incentive Regulation for Ontario's Electricity Distributors* on September 17, 2008 ("Supplemental Report"), and its *Addendum to the Supplemental Report of the Board on 3<sup>rd</sup> Generation Incentive Regulation for Ontario's Electricity Distributors* on January 28, 2009 (collectively the "Reports"). Among other things, the Reports contain the relevant guidelines for 2012 rate adjustments for distributors applying for distribution rate adjustments pursuant to the IRM process. On June 22, 2011 the Board issued an update to Chapter 3 of the Board's *Filing Requirements for Transmission and Distribution Applications* (the "Filing Requirements"), which outlines the Filing Requirements for IRM applications based on the policies in the Reports.

Notice of Algoma's rate application was given through newspaper publication in Algoma's service area advising interested parties where the rate application could be viewed and advising how they could intervene in the proceeding or comment on the application. The Board received correspondence from one individual. The Vulnerable Energy Consumers Coalition ("VECC") and the School Energy Coalition ("SEC") applied for and were granted intervenor status in this proceeding. The Board granted VECC and SEC eligibility for cost awards in relation to revenue-to-cost ratio proposals that go beyond implementation of previous Board decisions and the matter of RRRP. Board staff also participated in the proceeding. The Board proceeded by way of a written hearing. On December 21, 2011 the Board declared Algoma's existing rates interim, effective January 1, 2012, and noted that the order for interim rates should not be construed as predictive, in any way whatsoever, of the final determination of this current application.

While the Board has considered the entire record in this proceeding, it has made reference only to such evidence as is necessary to provide context to its findings. The following issues are addressed in this Decision and Order:

- Incentive Regulation Mechanism (“IRM”) and RRRP;
- Price Cap Index Adjustment;
- RRRP Charge;
- Revenue-to-Cost Ratio Adjustments;
- Shared Tax Savings (Federal and Provincial Income Taxes);
- Smart Meters;
- Retail Transmission Service Rates (“RTSR”) Adjustment;
- Disposition of Deferral and Variance Accounts as per the *Electricity Distributors’ Deferral and Variance Account Review Report* (the “EDDVAR Report”);
- Review and Disposition of Account 1521: Special Purpose Charge;
- Review and Disposition of Account 1562: Deferred Payments in Lieu of Taxes;  
and
- Effective Date.

### **Incentive Regulation Mechanism (“IRM”) and RRRP**

Algoma’s rate application was filed on the basis of the Filing Requirements for 3<sup>rd</sup> Generation IRM, modified to accommodate the requirements of RRRP. Specifically, the setting of rates for Algoma’s Residential R-1 and R-2 classes is subject to the RRRP Regulation, Ontario Regulation 442/01, in particular, section 4 subsections 3.1 and 3.2:

(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).

In its decision on Algoma’s 2010 and 2011 cost of service application (EB-2009-0278), dated November 11, 2010, the Board approved a methodology to calculate the

adjustment (“RRRP Adjustment”) that would be applied to the existing rates<sup>1</sup> to generate the new rates, i.e. the Monthly Service Charge and the Distribution Variable Rate, for the R-1 and R-2 customer classes. The Board indicated that it would communicate the RRRP Adjustment, which is based on the average annual change in distribution rates for all rate regulated distributors for the Residential and GS<50 kW customer rate classes. As communicated by the Board to Algoma on December 7, 2011 the RRRP Adjustment factor to be used in the calculation of 2012 rates, i.e., the Monthly Service Charge and the Distribution Variable Rate, for R-1 and R-2 customer classes is 2.81%.

Under an IRM regime, absent RRRP, a price cap adjustment index applies to the distributor’s existing Board approved rates for all customer rate classes. In this case, due to the RRRP regulation, the rates applicable to the R-1 and R-2 customer rate classes are to be adjusted by the RRRP Adjustment only.

Algoma proposed in this first rate application under an IRM regime that the RRRP funding for the R-1 and R-2 rate classes be calculated using the difference between:

- i. The revenue requirement for the R-1 and R-2 customer rate classes adjusted by the price cap adjustment index; and
- ii. The revenues generated by the R-1 and R-2 rate classes using the RRRP Adjustment.

Algoma also proposed that the rates for all other customer rate classes that are not eligible for RRRP would be adjusted by the price cap adjustment index.

Algoma indicated that, pursuant to the Settlement Agreement accepted by the Board in the EB-2009-0278 proceeding, it consulted with intervenors on the IRM mechanism presented in this Application. VECC and SEC, the only intervenors to participate in this proceeding, did not object to the framework proposed by Algoma.

In general, the Board views the modifications to the 3<sup>rd</sup> Generation IRM framework proposed by Algoma as a reasonable and practical way to incorporate the RRRP related rate making requirements, without losing the benefits of IRM. With the

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<sup>1</sup> The existing rates for the R-1 and R-2 classes are as set out in the Tariff of Rates and Charges. They are lower than otherwise would be the case because of RRRP.

exception of particular component details which the Board addresses below, the Board accepts the proposed approach as the basis for setting the rates for 2012.

The Board also notes that the level of RRRP funding requested by Algoma in its application is dependent upon the Board's findings regarding the underlying elements of the funding calculation, such as the Price Cap Index and RRRP Adjustment. The Board confirms that the final amount of RRRP funding is to be calculated in the draft Rate Order based on these findings.

### **Price Cap Index Adjustment**

As outlined in the Filing Requirements and Reports, distribution rates under the 3rd Generation IRM are to be adjusted by a price escalator less a productivity factor (X-factor) of 0.72% and a stretch factor.

On November 10, 2011, the Board announced a price escalator of 1.7% for the 3rd Generation Incentive Regulation mechanisms for adjusting electricity distribution rates effective January 1, 2012.

The stretch factors are assigned to distributors based on the results of two benchmarking evaluations to divide the Ontario industry into three efficiency cohorts. The Board established Algoma's efficiency cohort and assigned a cohort specific stretch factor of 0.60% in its letter to Licensed Electricity Distributors dated December 1, 2011.

Chapter 3 of the Filing Requirements states that for those distributors whose rate year has been aligned with their fiscal year, the annual percentage change in the GDP-IPI, calculated as the percentage change in the GDP-IPI for the 4-quarter period from 2010 Q3 to 2011 Q2 relative to the preceding 4-quarter period from 2009 Q3 to 2010 Q2, will be used in the final rate application model.

On this basis the resulting price cap index adjustment would be 0.38 %. The price cap index adjustment applies to distribution rates (fixed and variable charges) uniformly across customer classes that are not eligible for RRRP funding.

The price cap index adjustment does not apply to the following components of delivery rates:

- Rate Riders;
- Rate Adders;
- Low Voltage Service Charges;
- Retail Transmission Service Rates;
- Wholesale Market Service Rate;
- Rural Rate Protection Charge;
- Standard Supply service – Administrative Charge;
- Transformation and Primary Metering Allowances;
- Loss Factors;
- Specific Service Charges;
- MicroFIT Service Charges; and
- Retail Service Charges.

### Stretch Factor

In its application, Algoma argued that given its low customer density and large geographic area the implementation of a stretch factor with its basis founded on comparative operating cost per customer is not valid. Algoma proposed the mid point value of 0.4% as the most suitable stretch factor for a utility with such special circumstances.

VECC and Board staff submitted that the applicable stretch factor for Algoma is 0.6%, and not the 0.4% proposed by Algoma. Board staff submitted that the 2012 IRM proceeding was not the appropriate venue to raise issues pertaining to the Board's separate determination as to which stretch factor applies to Algoma.

In its reply submission, Algoma stated that the current application is the first time that the stretch factor, as a measure in setting Algoma's rates, is a consideration and that this application is the proper forum to raise such issues. Algoma pointed to its characterization by the Board in a previous decision<sup>2</sup> as a "high cost" and "low revenue" distributor as indicative of its special circumstances when it comes to measures of productivity. Algoma repeated its argument that a 0.4% stretch factor, being the mid-point between the high and low cohort levels, is the only just and reasonable one that should apply.

Board staff's submission also indicated that Algoma, and its predecessor, Great Lakes

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<sup>2</sup> EB-2007-0744 Decision and Order dated October 30, 2008, p.3.

Power Limited (“GLPL”), did not make its concerns known to the Board by pursuing an adjustment to its grouping or stretch factor assignment. Algoma did not address Board staff’s comment in its reply submission, but after the evidentiary record was completed and all final submissions received, Algoma filed a letter with the Board, attached to which was a copy of a submission that was previously filed in 2008 by GLPL during a Board consultation comparing distributor costs (EB-2006-0268).<sup>3</sup>

In its responding letter the Board determined it would not re-open the record of this proceeding in order to allow the Board to consider the April 28, 2008 submission nor did the Board consider it necessary to receive submissions on the matter<sup>4</sup>. Accordingly, the evidentiary record that the Board relied upon in this proceeding does not include the April 28, 2008 letter concerning stretch factors.

Also subsequent to the filing of Algoma’s reply submission, SEC filed a letter indicating its support of Algoma’s position for a 0.4% stretch factor, stating among other things, that Algoma had consulted thoroughly with interested parties on the various approaches to the interaction between IRM with RRRP. In SEC’s view, the agreed-to structure of the IRM/RRRP approach included a 0.4% stretch factor.

The Board notes that the November 11, 2010 Decision and Order of the Board (EB-2009-0278) states that “Algoma agrees to consult with intervenors prior to proposing any future Incentive Rate Mechanism to set rates in non-rebasing years”. While the Board notes that the letter filed by SEC implies that there may have been some previous discussions and/or meetings with stakeholders, Algoma did not file evidence relating to its consultation with parties and any agreement reached.

VECC, SEC and Energy Probe Research Foundation were parties to the Revised Settlement Agreement dated September 17, 2010 reached in EB-2009-0278 and subsequently accepted by the Board on September 29, 2010. Of these parties, only VECC filed a submission in this proceeding.

VECC’s submission suggests that if an agreement was reached, it did not represent a consensus on all of the issues relevant to this proceeding, including the stretch factor to be used in the IRM model. Based on the conflicting submissions of parties and Algoma, it is clear that the Board will have to issue specific findings in order to establish final

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<sup>3</sup> Letter dated January 4, 2012 from Algoma to the Board with attached letter dated April 28, 2008 from GLPL to the Board.

<sup>4</sup> Letter dated January 10, 2012, from the Board to Algoma.

rates for the subject rate year.

The Board finds that the stretch factor of 0.6% should be used to update Algoma's 2012 distribution rates and 2012 RRRP funding amount.

The factors listed by Algoma in its reply submission support the utility's ongoing treatment pursuant to RRRP. The fact that a utility has its rates set pursuant to RRRP does not mitigate the need to be efficient, which is one of the objectives of IRM.

Algoma is part of the cohort group used annually by the Board's consultant to generate the stretch factors. The stretch factor rankings for each distribution company in 2012 were released on November 10, 2011.

To award a stretch factor that is different from that set out in the letter would have the effect of providing incremental relief to the utility for those qualities that are already appropriately dealt with via the RRRP mechanism. No incremental arguments were provided that would justify a different stretch factor. In any event, an IRM application is not an appropriate venue in which a change in stretch factors should be considered.

The Board also notes that in the Decision and Order for EB-2009-0278, the Board states that "the Board will leave to a future discussion the implementation particulars that would give effect to the annual calculation of the RRRP adjustment and setting of rates in an IRM context", which implies that how the RRRP adjustment would be reflected in an IRM revenue requirement calculation was subject to a future determination. The Board does not interpret this to imply customizing the Board's existing policies under the IRM methodology.

The Board is of the view that the following Incentive Regulation Price Cap Metrics should be used to update Algoma's proposed 2012 distribution rates and 2012 RRRP funding amount.

RRRP Adjustment Factor: 2.81%

Price Escalator: 1.70%

Stretch Factor: 0.6%

Productivity Factor of 0.72%

Price Cap Index (calculated): 0.38%



## **RRRP Charge**

On December 21, 2011, the Board issued a Decision with Reasons and Rate Order (EB-2011-0405) establishing the RRRP Charge for 2012. The Board amended the RRRP charge to be collected by the Independent Electricity System Operator from the current \$0.0013 per kWh to \$0.0011 per kWh effective May 1, 2012. The final Tariff of Rates and Charges flowing from this IRM Decision will reflect the new RRRP charge.

## **Revenue-to-Cost Ratio Adjustments**

Revenue-to-cost ratios measure the relationship between the revenues expected from a class of customers and the level of costs allocated to that class. The Board has established target ratio ranges (the “Target Ranges”) for Ontario electricity distributors in its report *Application of Cost Allocation for Electricity Distributors*, dated November 28, 2007 and in its updated report *Review of Electricity Distribution Cost Allocation Policy*, dated March 31, 2011.

Algoma’s proposed rates for 2012 reflect an adjustment to the existing Board-approved revenue-to-cost ratios. Algoma indicated that its proposed changes to the Residential R-2 and Street lighting classes do not rely on any prior Board decisions that specifically approved or prescribed a phase-in period to adjust Algoma’s revenue-to-cost ratios.

Board staff and VECC submitted that the Board should deny the adjustments to the revenue-to-cost ratios proposed by Algoma. VECC argued that in order to be consistent with IRM principles, Algoma should not be proposing adjustments to revenue-to-cost ratios and the calculation of 2012 rates should not include any revenue-to-cost ratio updates.

The Board will not approve a change in the revenue-to-cost ratios as proposed by Algoma. As per the IRM Filing Requirements, changes to revenue-to-cost ratios that are not supported by prior Board decisions are not to be included in an IRM application. The Board finds that there is an insufficient evidentiary basis to support a deviation from this policy.

## **Shared Tax Savings**

In its September 17, 2008 Supplemental Report, the Board determined that a 50/50

sharing of the impact of currently known legislated tax changes, as applied to the tax level reflected in the Board-approved base rates for a distributor, is appropriate.

Algoma used a combined (Federal/ Provincial) tax rate of 26.25% for 2012 to calculate the 2012 tax savings, amounting to \$47,983 to be shared with ratepayers. Board staff questioned the combined rate since it did not reflect the Ontario Small Business Deduction ("OSBD"). Board staff argued that on a "stand-alone basis" Algoma's combined tax rate would be 28.25%, thereby increasing the amount to be shared to \$107,897. Board staff submitted that since Algoma's predecessor company had calculated its taxes for regulatory purposes on a stand-alone basis, the same approach should be taken by Algoma.

Algoma disagreed with Board staff noting that the "combined" tax rate approach was the one accepted in Algoma's last proceeding, EB-2009-0278, and it would be inappropriate to undo what had been previously decided.

The Board finds that the 2012 shared tax savings are \$47,983. The Board agrees with Algoma that this finding is consistent with the terms of the Revised Settlement Agreement and is consistent with the assumptions underpinning 2011 base rates.

### **Smart Meter Funding Adder**

On October 22, 2008 the Board issued the *Guideline for Smart Meter Funding and Cost Recovery* which sets out the Board's filing requirements in relation to the funding and recovery of costs associated with smart meter activities conducted by electricity distributors.

In the 2011 rate applications, the Board approved, in most cases, a sunset date of April, 30, 2012 for Smart Meter Funding Adders ("SMFA") since distributors were expected to file a final prudence review of smart meter costs in 2012. However, in Algoma's case the SMFA of \$1.00 per metered customer did not include a sunset date.

In this application, Algoma has requested that a sunset date of April 30, 2012 be assigned to the existing SMFA and noted its intent to file for a final prudence review by early in the 2<sup>nd</sup> quarter of 2012. Board staff concurred with Algoma's request.

The Board will approve a sunset date for Algoma's current SMFA of \$1.00 to the earlier

of December 31, 2012 or the effective date of the Decision and Order of the Board made pursuant to an application to be filed by Algoma no later than June 1, 2012, for the final recovery of smart meter costs. The Board notes that the April 30, 2012 sunset date was set to capture applicants with May 1 rate years and not necessarily to those utilities, such as Algoma, with rate years beginning January 1.

### **Retail Transmission Service Rates**

Electricity distributors are charged the Ontario Uniform Transmission Rates (“UTRs”) at the wholesale level and subsequently pass these charges on to their distribution customers through the Retail Transmission Service Rates (“RTSRs”). Variance accounts are used to capture timing differences and differences in the rate that a distributor pays for wholesale transmission service compared to the retail rate that the distributor is authorized to charge when billing its customers (i.e., variance accounts 1584 and 1586).

On June 22, 2011 the Board issued revision 3.0 of the *Guideline G-2008-0001 - Electricity Distribution Retail Transmission Service Rates* (the “RTSR Guideline”). The RTSR Guideline outlines the information that the Board requires electricity distributors to file to adjust their RTSRs for 2012. The RTSR Guideline requires electricity distributors to adjust their RTSRs based on a comparison of historical transmission costs adjusted for the new UTR levels and the revenues generated under existing RTSRs. The objective of resetting the rates is to minimize the prospective balances in accounts 1584 and 1586. In order to assist electricity distributors in the calculation of the distributors’ specific RTSRs, Board staff provided a filing module.

Algoma proposed in this application to set the RTSRs for 2012 by applying the percentage increase, between 2010 and 2011 UTRs, to the existing RTSRs. Algoma explained that this was warranted because of the nature of the variables underpinning its existing RTSRs.

Board staff noted that the Filing Requirements require the use of a pre-established filing module or Workform to calculate the 2012 RTSRs. In response to Board staff’s request, Algoma filed a completed module.

The Board agrees with Board staff that the 2012 RTSRs be set using the filing module.

On December 20, 2011 the Board issued its Rate Order for Hydro One Transmission (EB-2011-0268) which adjusted the UTRs effective January 1, 2012, as shown in the following table:

<b>Uniform Transmission Rates</b>	<b>Jan 1, 2012</b>
Network Service Rate	\$3.57
<u>Connection Service Rates</u>	
Line Connection Service Rate	\$0.80
Transformation Connection Service Rate	\$1.86

These 2012 UTRs were not incorporated into the module previously filed by Algoma.

The Board directs Algoma to include in its draft Rate Order, an updated RTSR filing module which includes the UTRs effective January 1, 2012 noted above.

### **Review and Disposition of Group 1 Deferral and Variance Account Balances**

The *Report of the Board on Electricity Distributors' Deferral and Variance Account Review Report* (the "EDDVAR Report") provides that, during the IRM plan term, the distributor's Group 1 account balances will be reviewed and disposed if the preset disposition threshold of \$0.001 per kWh (debit or credit) is exceeded. The onus is on the distributor to justify why any account balance in excess of the threshold should not be disposed.

The Board notes that Algoma in applying the threshold test excluded the Global Adjustment sub-account balance from the calculation. The Board reminds Algoma that the threshold calculation, pursuant to the EDDVAR Report, in the first instance, is to include all balances regardless of Algoma's proposals on the amounts to be recovered.

Algoma's 2010 actual year-end balance for Group 1 accounts, including the Global Adjustment sub-account, with interest projected to December 31, 2011, is a credit of \$1,074,712.<sup>5</sup> This equates to a credit of \$0.005 per kWh which exceeds the disposition threshold.

<sup>5</sup> During the course of the proceeding Algoma updated its Group 1 D/V account balances, including the Global Adjustment sub-account, in light of the findings of a regulatory audit of the Group 1 Accounts. The amounts noted in this Decision are the updated amounts.

Algoma proposed that the Group 1 account balance exclude the Global Adjustment sub-account and that the resulting amount, a credit of \$ 250,216, be disposed to ratepayers over a 17 month term, from January 1, 2012 to May 31, 2013.

The Board finds that the threshold test has been met and that the Group 1 Deferral and Variance Accounts (exclusive of the Global Adjustment sub-account) balance of a credit of \$250,216 is to be disposed. The balance is to be declared final as at December 31, 2010, with carrying costs to December 31, 2011 (total credit of \$258,055, including interest). The Board is of the view that there are no compelling reasons to deviate from the default disposition term of one year (January 1, 2012 to December 31, 2012).

The 2010 actual year-end balance, with interest projected to December 31, 2011, for the Global Adjustment sub-account is a credit of \$816,657. Algoma requested that the disposition of the Global Adjustment sub-account be deferred until its billing system can differentiate between RPP and non-RPP customers. Algoma indicated in its reply submission that it expects that this billing system feature will be available for January 1, 2013.

With respect to the Global Adjustment sub-account, the Board notes that the Revised 2011 Settlement Agreement<sup>6</sup> states:

The Parties agree that API [Algoma] should delay clearing the Global Adjustment account until the new CIS system is in place, and therefore API will have the technical ability to clear the account to RPP and non-RPP customers separately. When API has that ability, it will make a separate application for clearance of the account.

The Board notes that no dates are set out in the Revised Settlement Agreement and that Algoma's commitment to modify its billing system has been open ended. The Board also notes that the principal balance in the Global Adjustment sub-account is now a credit of \$800,854 versus \$601,137 as originally filed, an increase of over 30%. Algoma has indicated that it will have requisite technical ability by January 1, 2013, more than 27 months after the date the Revised Settlement Agreement was accepted by the Board. The Board finds this to be unacceptable, as the balance in the account is sizeable and Algoma has not demonstrated that it is acting in a timely manner to resolve this issue.

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<sup>6</sup> EB-2010-0274 Revised Settlement Agreement, dated September 17, 2010, p. 16

The Board therefore directs Algoma to file an application with the Board by no later than June 1, 2012 to dispose of the Global Adjustment sub-account balance. If Algoma has not, at the time of the application, completed the modifications to its billing system to differentiate between RPP and non-RPP customers, the application should reflect the disposition of the Global Adjustment sub-account balance to all customers.

#### Existing Group 1 Rate Rider

On December 7, 2011 Algoma filed a letter disclosing the findings of a recently completed regulatory audit. One of the findings was that the calculation underpinning the existing rate rider for the disposition of the Group 1 accounts for the year ended December 31, 2009, excluding the Global Adjustment sub-account, incorrectly included the balance for the Global Adjustment sub-account in the amount of a \$66,872 credit. Algoma proposed that the existing rate rider run its full term, that is to May 31, 2013, and that, when Algoma has the billing capacity for the separate disposition of the Global Adjustment sub-account, the balance for this account could be reconciled and settled at the Board's direction in a future proceeding.

The Board disagrees with the treatment proposed by the Algoma, which would have the effect of propagating the error until May 31, 2013. The Board finds that, as of the effective date of this Decision and Order, the 2011 rate rider calculation should be corrected to remove the credit balance \$66,872, which is the amount for the Global Adjustment sub-account erroneously included in the rate rider calculation. The calculation of the corrected rate rider will be based on the same particulars set out in the EB-2009-0278 decision, i.e. the same charge determinants and term (to May 31, 2013). Algoma is directed to adjust the credit balance in the Global Adjustment sub-account, increasing the credit balance by \$66,872. The corrected balance of the Global Adjustment sub-account is subject to the findings set out by the Board above.

#### **Review and Disposition of Account 1521: Special Purpose Charge**

The Board authorized Account 1521, Special Purpose Charge Assessment ("SPC") Variance Account in accordance with Section 8 of Ontario Regulation 66/10 (Assessments for Ministry of Energy and Infrastructure Conservation and Renewable Energy Program Costs) (the "SPC Regulation"). Accordingly, any difference between (a) the amount remitted to the Minister of Finance for the distributor's SPC assessment; and (b) the amounts recovered from customers on account of the assessment were to be recorded in "Sub-account 2010 SPC Assessment Variance" of Account 1521.

In accordance with Section 8 of the SPC Regulation, distributors are required to apply by no later than April 15, 2012 for an order authorizing the disposition of any residual balance in sub-account 2010 SPC Assessment Variance. Chapter 3 of the Filing Requirements states the Board's expectation that requests for disposition of this account balance would be heard as part of the proceedings to set rates for the 2012 year.

Algoma did not file for the disposition of account 1521 in this proceeding but indicated its intention to do so by April 15, 2012. Algoma indicated that since it bills its seasonal customers on an annual cycle, not all consumption to June 30, 2011 will have been recorded.

The Board accepts Algoma's proposal and directs Algoma to file for the disposition of any balance in the SPC variance account no later than April 15, 2012 which is the date set out in the SPC Regulation.

### **Review and Disposition of Account 1562: Deferred Payments in Lieu of Taxes**

In 2001, the Board approved a regulatory payments in lieu tax proxy approach for rate applications coupled with a true-up mechanism filed under the *Reporting and Record-keeping Requirements* ("RRR") to account for changes in tax legislation and rules and to true-up between certain proxy amounts used to set rates and the actual amount of taxes paid. The variances resulting from the true-up were tracked in Account 1562 for the period 2001 through April 30, 2006.

On November 28, 2008, pursuant to sections 78, 19 (4) and 21 (5) of the *Ontario Energy Board Act, 1998*, the Board commenced a Combined Proceeding (EB-2008-0381) on its own motion to determine the accuracy of the final account balances with respect to Account 1562 Deferred Payments in Lieu of Taxes ("Deferred PILs") (for the period October 1, 2001 to April 30, 2006) for certain electricity distributors that filed 2008 and 2009 distribution rate applications.

The Notice in the Combined Proceeding included a statement of the Board's expectation that the decision resulting from the Combined Proceeding would be used to determine the final account balances with respect to account 1562 Deferred PILs for the remaining distributors. In its decision and order, the Board stated that: "Each remaining distributor will be expected to apply for final disposition of account 1562 with its next

general rates application (either IRM or cost of service).”<sup>7</sup>

In an interrogatory, Board staff noted that Algoma’s RRR 2.1.7 filing for 2010 shows a credit of \$273,000 in account 1562 while the D/V Continuity Schedule filed in the application shows no amount recorded for the year ended December 31, 2010. Board staff questioned why Algoma did not provide the reconciliations associated with clearance of the account. Algoma responded that it decided to defer the matter since its particular circumstances do not lend itself to a straightforward determination and would likely require additional evidence.<sup>8</sup> Algoma noted that deferral of the matter is consistent with the Board’s direction found at page 28 of the EB-2008-0381 Decision and Order where the Board stated:

If the distributor files evidence in accordance with all the various decisions made in the course of this proceeding, including the use of the updated model referenced above and certifies to that effect, the distributor may expect that the determination of the final account balance will be handled expeditiously and in a largely administrative manner.

Distributors are of course able to file on a basis which differs from that which is contemplated by the decisions in this proceeding. In that event, the application can be expected to take some time to process, and therefore, should not be made as part of an IRM application.

In its submission, Board staff supported Algoma’s request to defer the disposition of account 1562 to a future proceeding. Board staff submitted that pursuant to the direction provided by the Board to certain other 2012 IRM submitters, Algoma should file a stand-alone application to dispose of account 1562 by April 1, 2012.

The Board will accept Algoma’s deferral to consider account 1562 and directs Algoma to file an application to dispose of account 1562 by April 1, 2012.

## **EFFECTIVE DATE**

In its application filed on September 15, 2011, and in its amended application filed on October 13, 2011, Algoma requested that the Board make its new rates effective January 1, 2012. Algoma by way of letter dated October 19, 2011 further requested that the Board declare Algoma’s rates interim, effective January 1, 2012, in the event that the Board is unable to issue its Decision and Order in time for the new rates to be

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<sup>7</sup> EB-2008-0381 Account 1562 Deferred PILs Combined Proceeding, Decision and Order, p. 28

<sup>8</sup> Response to Board staff interrogatory No. 9.



implemented on January 1, 2012. In its Order for Interim Rates issued on December 22, 2011, the Board declared Algoma's current rates interim, effective, January 1, 2012, and emphasized that the order for interim rates should not be construed as predictive, in any way whatsoever, of the final determination of the Application.

No interrogatories or submissions were filed with respect to the request that the new rates be effective January 1, 2012.

The Board has determined that the new rates will be effective January 1, 2012. The Board notes that due to timing practicalities the implementation of the new rates will likely occur in the next billing cycle. In this regard, the Board finds that Algoma should recover the forecasted foregone revenue for the month of January 2012 and directs Algoma to calculate a rate rider with an eleven month term, February 1, 2012 to December 31, 2012, to recover the foregone revenue. The Board also directs Algoma to recalculate the rate riders for the disposition of deferral and variance account balances approved in this decision to reflect a February 1, 2012 implementation.

### **Draft Rate Order**

The Board's findings in this Decision will change the distribution rates as originally proposed by Algoma. Accordingly, the Board instructs Algoma to file a draft Rate Order which reflects the Board's findings. Supporting documentation shall include all relevant calculations showing the impact of this Decision on Algoma's determination of the final rates and shall include, but not be limited to, completed filing templates.

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

### **THE BOARD ORDERS THAT:**

1. Algoma shall file with the Board, and shall also forward to intervenors, a draft Rate Order attaching a proposed Tariff of Rates and Charges and other filings reflecting the Board's findings in this Decision and Order within 7 days of the date of the issuance of this Decision and Order.
2. Intervenors and Board staff shall file any comments on the draft Rate Order with the Board and forward to Algoma within 7 days of the date of filing of the

draft Rate Order.

3. Algoma shall file with the Board and forward to intervenors responses to any comments on its draft Rate Order within 4 days of the date of receipt of intervenor and Board staff comments.
4. Algoma shall pay the Board's costs incidental to this proceeding upon receipt of the Board's invoice.

### **COST AWARDS**

The Board will issue a separate decision on cost awards once the following steps are completed:

1. Intervenors eligible for cost awards shall submit their cost claims no later than 7 days from the date of the issuance of the Rate Order.
2. Algoma shall file its response, if any, no later than 21 days from the date of the issuance of the Rate Order.
3. Intervenors shall file their reply to Algoma's response no later than 28 days from the date of the Rate Order.

All filings to the Board must quote file number **EB-2011-0152**, be made through the Board's web portal at, [www.errr.ontarioenergyboard.ca](http://www.errr.ontarioenergyboard.ca) and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.ontarioenergyboard.ca](http://www.ontarioenergyboard.ca). If the web portal is not available parties may email their document to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

**DATED** at Toronto, January 20, 2012

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary