RP-2004-0117
RP-2004-0118
RP-2004-0100
RP-2004-0069
RP-2004-0064

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 Hydro One Networks Inc, Toronto Hydro-Electric System Limited, Enersource Hydro Mississauga Inc., and London Hydro Inc for an order or orders approving or fixing just and reasonable rates pertaining to the Recovery of Regulatory Assets - Phase 2.

BEFORE: Paul Vlahos
Presiding Member

Jan Carr
Vice Chair and Member

Cynthia Chaplin
Member

DECISION WITH REASONS

December 09, 2004

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1. Introduction and General Matters

1.0.1 Ontario's local electricity distribution companies (LDCs or distributors) have incurred a variety of costs in preparation for the competitive market which opened in May 2002. In addition to these transition costs, utilities have incurred other costs associated with regulatory directives related to market restructuring and the ongoing competitive market. These costs for retail settlements, power purchases and market readiness were recorded in deferral accounts[1] and would have been eligible for recovery through rates in accordance with the Board's review and audit guidelines and rate setting procedures. However, with the announcement of the *Electricity Pricing, Conservation and Supply Act* (Bill 210) on November 11, 2002, these 15 accounts were deemed to be regulatory assets (s. 79.13, Bill 210) until such time as the Board addressed their disposition.

1.0.2 The 15 regulatory asset accounts are:

1508 Other Regulatory Assets
1518 Retail Cost Variance Account - Retail
1548 Retail Cost Variance Account - STR
1525 Miscellaneous Deferred Debits - includes costs of rebate cheques
1562 Deferred Payments in Lieu of Taxes
1570 Qualifying transition costs
1571 Pre-Market Opening Energy Variances
1572 Extraordinary Event Losses
1574 Deferred Rate Impact Amounts
1580 Retail Settlement Variance Account - Wholesale Market Service Charges

[1]The terms deferral account and variance account are used interchangeably in this decision.

1582 Retail Settlement Variance Account - One-time Wholesale Market Service
1584 Retail Settlement Variance Account - Retail Transmission Network Charges
1586 Retail Settlement Variance Account - Retail Transmission Connection Charges
1588 Retail Settlement Variance Account - Power
2425 Other Deferred Credits

1.0.3 The Government introduced the *Ontario Energy Board Amendment Act (Electricity Pricing) 2003* (Bill 4) on November 25, 2003. At the same time, the Government announced that distributors could begin recovering the balances in their regulatory asset accounts over four years, beginning March 1, 2004.

1.0.4 The Board's consideration of the distributors' applications is occurring in two phases. In Phase 1, the distributors applied for the recovery in rates of up to 25% of their total regulatory assets (or more if required for rate stability), beginning April 1, 2004. This approach was in keeping with the Government's intention that regulatory assets be recovered over a four year period. To expedite approval and implementation of the Phase 1 recovery, the Board did not examine the prudence of the total amounts. In Phase 2, the current phase, the Board is reviewing the prudence of the total regulatory asset amounts claimed by electricity distributors.

Phase 1

1.0.5 On January 15, 2004, the Board issued filing guidelines for electricity distributors for Phase 1. The LDCs were required to file applications for the recovery of the audited December 31, 2002 balances in the 15 regulatory asset accounts by January 23, 2004.

1.0.6 The Board published a notice in Ontario newspapers on February 5, 2004 informing ratepayers of this recovery process and inviting interventions and submissions. The Board issued decisions and rate orders for the Phase 1 applicants in March 2004 for implementation on April 1, 2004.

Phase 2

1.0.7 On May 5, 2004, the Board issued a letter indicating its intention to proceed with Phase 2 of the regulatory asset review. In response to the submissions of intervenors, for regulatory efficiency and in order for the evidence before the Board to be tested in cross examination, the Board determined that it would proceed by holding oral hearings for five large electricity distributors. The five distributors (collectively the "Applicants" in this proceeding) are:

Hydro One Networks Inc. (Hydro One)
Toronto Hydro-Electric System Limited (Toronto Hydro)
Enersource Hydro Mississauga Inc. (Enersource)
London Hydro Inc. (London Hydro)
EnWin Powerlines Limited (EnWin)[2]

1.0.8 The five distributors were selected based on being among the ten largest by customer count and on the basis of the relative level of their total regulatory asset and transition costs claimed.

1.0.9 In addition to the decisions for each of the five distributors, the Board indicated that the oral hearing would be used to assess what would constitute the best evidence, forum and process to determine the reasonableness of regulatory asset amounts to be claimed by the remaining distributors.

[2] The Board adjourned EnWin's Application on its request (details in Appendix A).

1.0.10 Further details of this proceeding, including a list of representatives and lists of witnesses, appears at Appendix A.

1.0.11 Copies of the evidence, exhibits, arguments and transcript of the proceeding are available for review at the Board's offices. The Board has considered the full record of the proceeding, but has summarized the record only to the extent necessary to provide context for its findings.

The Board's Approach to this Decision

1.0.12 The main issues for the Board in this proceeding are:

- whether the deferral account amounts being claimed are eligible
- if not, what the appropriate adjustments should be
- the appropriate cost allocation to the various rate classes
- the appropriate method of recovery within a rate class

1.0.13 Rather than address each Applicant's case separately, the Board has chosen to organize this decision by deferral account[3], into the following Chapters:

2: Retail Settlement Variance Accounts (1580, 1582, 1584, 1586, 1588)
3: Pre-Market Opening Energy Variance Account (1571)
4: Retail Cost Variance Accounts (1518, 1548)
5: Miscellaneous Deferred Debits (1525)
6: Other Regulatory Assets (1508) which relates to Hydro One only
7: Transition Costs (1570)

[3] The Applicants did not claim balances for the following accounts:
Deferred Payments in Lieu of Taxes (1562)
Extraordinary Event Losses (1572)
Deferred Rate Impact Amounts (1574)
Other Deferred Credits (2425)

1.0.14 The account-specific chapters are followed by chapters dealing with other related issues, as follows:

8: Benchmarking
9: Implementation of the Decision by the Applicants
10: Phase 2 Process for remaining Distributors
11: Cost Awards and Cost Apportionment

1.0.15 In each section we provide a summary of the Applicants' evidence, a discussion of the issues raised by parties and the Board's findings. In some instances, these issues are generic in nature and apply to all the Applicants (and potentially all other distributors) and in some instances these issues are specific to one or more Applicants only. Generally, the decision addresses amounts first, followed by allocation to customer classes.

1.0.16 The Board has also made generic findings pertaining to the implementation, including recovery, of the Board's findings for the four Applicants and the remaining distributors. As set out in more detail later in this decision, the Board directs the Applicants to revise their filings to reflect the Board's findings in this decision. This direction is not necessarily repeated every time an adjustment for a specific item is ordered.

1.0.17 Where the Board directs that adjustments be made, associated carrying charges or interest[4] should also be adjusted where applicable. For adjustments to the Transition Costs Account (1570), carrying charges should be adjusted as of May 1, 2002. For other accounts, adjustments to carrying charges should be proportional to the relative share of the adjustment compared to the total claim. Where the Board disallows costs or carrying charges, these should be written off and will not be eligible for recovery in a future proceeding.

[4]The terms carrying charges and interest are used interchangeably in this decision.

1.0.18 Unless the Board directs that adjustments be made, it may be considered that the claimed amounts have been approved for ratemaking purposes. Therefore, it is not necessary for this finding to be repeated every time an Applicant's account-specific claim is addressed.

1.0.19 In all cases where the Board directs that refilings be made, including the matter of cost awards, "days" refer to calendar days. If due dates fall on a non-business day, due dates shall fall on the next business day.

1.0.20 In this Decision the Board refers to the parties by their acronyms. The full names are shown in Appendix A.

1.0.21 Finally, this Decision contemplates an effective and implementation date of May 1, 2005 to coincide with other rate changes contemplated on that date. Should that date change, the Board will issue a revised implementation schedule.

General Comment

1.0.22 By way of general comment, we observed that there has been considerable discretion applied by the Applicants in their accounting and reporting of the deferral accounts, even on accounts that can be characterized as mechanistic. We cannot emphasize enough that if a distributor approaches the Board's guidelines in a casual way, as was evident in many circumstances, this inevitably leads to cumbersome and expensive reviews to capture deviations and adequately deal with them. There are close to one hundred electricity distributors under the Board's regulatory purview. A detached or indifferent approach to adhering to the Board's guidelines, whether on regulatory assets or more generally, leads to a greater regulatory burden when there are so many utilities involved.

1.0.23 Also, many data errors were uncovered in the evidence of the Applicants during the proceeding. We find this discouraging. Errors that should have been detected before the filings were made were not detected, thereby creating a general uneasiness with the reliability of the data and other information provided. It is our perception that this led to a lengthier and more complicated review.

2. Retail Settlement Variance Accounts (1580, 1582, 1584, 1586, 1588)

2.0.1 The Retail Settlement Variance Accounts (RSVAs) were established to record the variances between the amounts owed by a distributor to the Independent Electricity Market Operator (IMO) or host distributor, as applicable, and the amounts billed to customers and retailers under sections 4, 5 and 6 of the Retail Settlement Code. These variances arise from timing and pricing differences and load data variations. The Electricity Distribution Rate Handbook (DRH) directs all distributors to have RSVAs. The DRH and Article 490 of the Accounting Procedures Handbook (APH490) describe the five RSVA accounts, and Articles 210 and 220 of the APH (APH210 and APH220) classify the recording of revenues, charges and the associated variances according to the Uniform System of Accounts (USoA) as follows:

- RSVA-wms (Account 1580) records the difference between the amount billed to customers for the Wholesale Market Service Charges (WMSC) listed in Table 11.1, Chapter 11 of the DRH and the actual costs to the distributor for these services.
- RSVA-wms one-time (Account 1582) records the non-recurring WMSC listed in Table 11.2, Chapter 11 of the DRH; there is no corresponding Board approved rate for recovery of these charges.
- RSVA-nw (Account 1584) records the difference between the amount billed to customers under the Retail Transmission Network Rate established under section 11.3.2.4 of the DRH and the actual costs to the distributor for the service.

- RSVA-cn (Account 1586) records the difference between the amount billed to customers under the Retail Transmission Connection Rate established under section 11.3.2.4 of the DRH and the actual costs to the distributor for the service.
- RSVA-power (Account 1588) records the difference between the amount billed to customers for competitive electricity services and the amount charged by the IMO for these services. This difference may include differences between estimated and actual line loss factors.

2.0.2 Carrying charges are to be calculated and recorded using the deemed debt rate for each distributor (as set out in Table 1, Chapter 3 of the DRH (Table 3-1)) applied to the monthly opening balances in the RSVAs. Carrying charges apply to any positive or negative balance in the account. At the end of each fiscal year, any outstanding balances in the accounts are carried forward to the opening balances for the following year. Distributors must file quarterly monitoring reports with the Board for all RSVA sub-accounts, as outlined in Appendix A, APH490.

Hydro One

2.0.3 Hydro One claimed an RSVA balance of $6,658,000 as of December 31, 2003. The amounts are based on the accrual method of revenue and cost reporting.

Account	Total
1580 RSVA wms	$29,574,000
1582 RSVA wms one-time	$2,147,000
1584 RSVA nw	($8,952,000)
1586 RSVA cn	($16,111,000)
1588 RSVA power	$0
TOTAL	**$6,658,000**

2.0.4 Hydro One did not make any claim for Account 1588 RSVA power. Hydro One's use of accrual accounting results in its reporting revenues for all energy it has purchased, therefore there is no difference in the loss factors, energy price or quantity. A balance of $4.3 million at the end of 2002 was the result of a problem in Hydro One's accrual model that has since been rectified. The balance was adjusted to $0 in early 2003.

2.0.5 Hydro One proposed that Accounts 1580, 1582 and 1588 should be allocated to all customers who are not participants in the market (not direct customers of the IMO), including Legacy or Core[5] customers, Acquired LDCs[6], Directs[7] and Embedded LDCs[8], based on energy consumed (kWhs) because Hydro One purchases commodity on the spot market directly from the IMO on behalf of these customers. Hydro One proposed that the same allocator be used to allocate these costs to the customer classes.

2.0.6 Hydro One proposed to allocate Accounts 1584 and 1586 to all customers who pay transmission charges based on kWhs, even though retail transmission charges are billed to Embedded LDCs and Directs on a demand basis. The Applicant proposed the same allocator be used to allocate the costs to the customer classes which are normally billed on energy usage. However, for Embedded LDCs and Directs who are billed on demand, Hydro One proposed to use demand as the allocator.

[5]Legacy or Core are those distribution customers served by Hydro excluding the customers served by the 87 Acquired LDCs.

[6]Acquired LDCs are the 87 distributors acquired by Hydro One in 2000 and 2001.

[7]Directs are large use customers that are served directly by Hydro One's Low Voltage system.

[8]Embedded LDCs are those distributors that are served by Hydro One's Low Voltage system.

Toronto Hydro

2.0.7 Toronto Hydro claimed an RSVA balance of $39.5 million as of December 31, 2003. The amounts are based on the accrual method of revenue and cost reporting.

Account	Total
1580 RSVA wms	$40,360,293
1582 RSVA wms one-time	included in Account 1580
1584 RSVA nw	$5,056,314
1586 RSVA cn	($2,086,718)
1588 RSVA power	($3,828,734)
TOTAL	**$39,501,155**

2.0.8 Toronto Hydro's Account 1588-RSVA power has three components. First, a difference between commodity revenues and costs arose from the delay in implementing open market rates; standard service customers were billed at legacy rates if their meter was read after May 1, 2002 and their billing period included the date May 1, 2002. Second, there is an ongoing marginal difference between the amount the IMO charges Toronto Hydro and the amount Toronto Hydro charges its customers. Third, there is a difference between the Board approved historic average loss factor and the actual loss experience of Toronto Hydro. The post-market loss factor variance included in Account 1588 is approximately $500,000.

2.0.9 At the beginning of the hearing, Toronto Hydro informed the Board that the IMO had overcharged it by $37.8 million for energy, transmission and uplift charges as a result of a wholesale meter error. This amount was credited back to Toronto Hydro on its July 2004 IMO invoice but is not reflected in its December 31, 2003 RSVA balances. Toronto Hydro explained that the adjustment will impact other non-regulatory asset accounts, as well as Toronto Hydro's own financial model of revenue accrual, and that it is unable to report the precise impact of the adjustment until an audit has been completed. Toronto Hydro stated during the hearing that it intended to provide final RSVA balances by mid-November 2004.

2.0.10 The evidence revealed that the carrying charges associated with Account 1582 were included in Account 1580.

2.0.11 Toronto Hydro did not propose an allocation methodology in its prefiled evidence. However, during the proceeding the Applicant suggested that kWhs would be an appropriate allocator for all RSVA amounts because the underlying costs are based on energy costs and demand.

Enersource

2.0.12 Enersource reported a December 31, 2003 RSVA balance of negative $7,688,842 in its May 31, 2004 submission. On July 12, 2004, Enersource revised its application and re-submitted a total RSVA balance of $5,536,330 as of December 31, 2003. The Applicant used the accrual approach in determining the RSVA balances.

Account	**Total**
1580 RSVA wms	$10,987,626
1582 RSVA wms one-time	$1,311,635
1584 RSVA nw	($2,585,514)
1586 RSVA cn	($4,085,671)
1588 RSVA power	($13,316,918) revised to ($91,746)
TOTAL	**($7,688,842)** **revised to $5,536,330**

2.0.13 Enersource explained that upon completing the Account 1588 reconciliation with the IMO it determined that it had been overcompensated by the IMO in the amount of $13,225,172. The reconciliation did not take place until March 2004, resulting in the revision to the Applicant's May 31, 2004 submission on July 12, 2004. Enersource claimed that although the amount was paid to the IMO in March 2004, it was paid on account of 2002 and 2003 transactions and should be considered in this proceeding.

2.0.14 Enersource did not propose an allocation methodology in its application. Subsequently, Enersource suggested allocating RSVAs to all customer classes by kWhs.

London Hydro

2.0.15 London Hydro claimed $9,248,605 for the RSVA accounts at December 31, 2003. London Hydro reported on the basis of the billed method.

Account	Total
1580 RSVA wms	$5,489,492
1582 RSVA wms one-time	$116,495
1584 RSVA nw	$2,016,480
1586 RSVA cn	$894,523
1588 RSVA power	$731,614
TOTAL	**$9,248,605**

2.0.16 London Hydro indicated that the variances in Account 1588 were due to differences between the actual loss factor and the approved total loss factor, IMO billing practices, customer billing cycle, wholesale metering adjustments and bill prorating calculations.

2.0.17 London Hydro proposed that the allocation to customer classes of all RSVAs by kWhs is the most reasonable approach because over 80% of the costs reported in these accounts were based on energy usage.

Issues Raised

Billed vs Accrual Approach: All Applicants

2.0.18 VECC recommended that the Board direct distributors to use the billed approach as outlined in APH490, while CME submitted that although the billed method is preferred due to its increased transparency, the Applicants should be adopting the same approach, be it accrual or billed.

2.0.19 Hydro One submitted that the Board should accept the use of accrual reporting, noting that it makes little difference in terms of dollar impact regardless of which method is used. Hydro One also reiterated the difficulty it would have in using the billed approach due to the rural nature of its customer base, and the resulting infrequency of meter reads and the numerous estimates and adjustments that would be required.

2.0.20 Toronto Hydro and Enersource argued that using the billed approach would require distributors to keep two sets of books: one for compliance with APH490 and the other for compliance with Generally Accepted Accounting Principles. In their view, this would increase administrative and accounting costs. Carrying charges would also increase because a distributor would carry the costs of the paid IMO invoices until the end of the customer billing cycle rather than assuming the customer had been billed in the same month as its consumption. They concluded that there is no compelling reason for distributors to adopt the billed approach and that if the Board wishes to adopt a single approach, it should be the accrual approach. Alternatively, distributors should be permitted to continue their present practices, with an explanation of the methodology if the OEB. considers it necessary.

2.0.21 VECC further submitted that the distributors should be consistent in applying their chosen approach across their accounts. VECC pointed out that London Hydro recorded load transfers from Hydro One to Accounts 1580 and 1588 without being invoiced, which is not consistent with its billed approach, and Toronto Hydro used the monthly values for its legacy rates, which is not consistent with the overall accrual method used by Toronto Hydro.

2.0.22 London Hydro responded that it had two options for the monthly reporting of the 400 customers in its service territory that consume energy through Hydro One's meters. London Hydro could have recorded a one-sided revenue only entry in the RSVA to record the revenue billed to long-term load transfer customers or it could have recorded the revenue billed and the associated accrual and unpaid cost of power. London Hydro chose the latter approach since it deemed the first method would produce "distorted results." London Hydro added that no unpaid cost of power amounts were included in the calculation of interest.

Board Findings

2.0.23 Hydro One, Toronto Hydro and Enersource used the accrual approach to record the revenues and costs in the RSVA accounts. London Hydro used the billed approach. While Article 490 of the APH describes how the billed approach should be used, we note that the two approaches will yield the same results in the long run, other than inter-temporal differences in carrying costs, which themselves may be considered insignificant. Restricting distributors to one approach when they may have used the other approach would involve a degree of effort, estimation, complexity and cost that could not be justified at this point for the sake of commonality. The Board therefore will accept either approach. However, whichever approach is chosen by a distributor, the Board expects that the same approach will be followed for all regulatory asset deferral accounts of the distributor, and throughout the life of these accounts. When each of the Applicants refiles its regulatory asset claims, it must ensure consistency.

2.0.24 A number of inconsistencies were identified during the proceeding which must be addressed by the Applicants. While Enersource used the accrual approach, it appears to have used the billed approach in determining interest costs. As stated earlier, in the case of Toronto Hydro, the recording of revenues from Legacy Rates is not consistent with the accrual method it otherwise used. In the case of London Hydro, which uses the billed method, it accrued load transfers from Hydro One. The Board expects each distributor to adhere to its chosen method of accounting and reflect this in its refiling.

Line Loss Variances: All Applicants

2.0.25 ECMI noted that Toronto Hydro, Enersource and London Hydro have identified the specific losses and unaccounted for variances in Account 1588 and Account 1571 (Pre-Market Opening Energy Variance). ECMI noted that Hydro One, on the other hand, did not “trap” the loss factor variances in Account 1588, and as a result the Board has no way of knowing if Hydro One has overcharged its customers for commodity costs. ECMI suggested that the Board order Hydro One to report these amounts in Account 1588 (as opposed to reporting them in an unbilled revenue account), rather than wait until the amounts become material enough for Hydro One to seek recovery.

2.0.26 Hydro One disagreed with ECMI, maintaining that there was no examination undertaken on the mechanics of determining actual losses for the other three Applicants and that actual losses were not the subject of this proceeding.

Board Findings

2.0.27 Toronto Hydro, London Hydro, and Enersource recorded variances between the Board-approved distribution losses and actual losses in RSVA-Power Account 1588. Hydro One did not record any variances. We find that there should be a standardized approach for reporting variances in line losses in Account 1588, as stipulated in APH490. The recording and tracking of variances in line losses in Account 1588 will have the benefit of enhancing visibility and awareness of these losses for management, stakeholders and the Board. We accept that Hydro One does not have information on actual distribution losses for 2002 and 2003. However, in future, the Board directs Hydro One to include line loss variances in Account 1588, consistent with the other three Applicants and APH490.

Carrying Costs: Hydro One

2.0.28 VECC recommended that the Board order Hydro One to re-calculate the carrying costs associated with the RSVAs using the annual debt rate of 6.8% as outlined in the DRH, instead of its embedded cost of debt which ranged from 7.14% to 8.3%. This was rejected by Hydro One arguing that it makes no sense for a distributor to use a proxy rate when a real rate exists. Hydro One argued that the deemed debt rate in the DRH is for utilities that do not have actual debt.

Board Findings

2.0.29 There needs to be consistency in the interest rate applied to the RSVAs and all other relevant regulatory asset accounts. The rate of interest should be the rate that is reflected in the currently-approved rates for a distributor. We note that Toronto Hydro, Enersource, and London Hydro used their deemed debt rate in calculating carrying charges stipulated in the Rate Handbook. We accept the use of such rates since they are reflected in the Board-authorized rates for these Applicants. We do not accept that Hydro One should use the 6.8% stipulated in the Rate Handbook, as argued by some parties, because this is not the debt rate that underpins Hydro One's current rates. For the same reason, we do not accept Hydro One's use of its embedded cost of debt as it changes from time to time. The Board-approved debt rate that underpins Hydro One's current rates is the 7.71% debt rate agreed to by the parties, and accepted by the Board, in the March 11, 2002 Settlement Conference regarding proceeding RP-2000-0023/EB-2001-0016. The Board therefore directs Hydro One to use the 7.71% rate to recalculate interest in all of its deferral accounts.

IMO Billing Adjustments: Toronto Hydro and Enersource

2.0.30 CME, VECC and SEC recommended that the Board not rule on Toronto Hydro's RSVA claim until the Applicant has filed revised balances reflecting the impact of the IMO meter error refund. CME stated that Toronto Hydro failed to prove its entitlement to the RSVA amounts, while VECC suggested that the Board should disallow the entire RSVA claim if Toronto Hydro does not provide the updated figures by a specified date. SEC recommended that the Board convene a technical conference, after the revised figures have been submitted, to allow interested parties to ask questions. The balance could then be disposed of by way of a written hearing. SEC submitted that in the meantime, Toronto Hydro's RSVA balances should be set at zero.

2.0.31 In its reply argument, Toronto Hydro stated that it now intends to provide final RSVA balances by year-end. Toronto Hydro repeated its request for interim approval of the original RSVA claim until a final adjustment is filed with the Board after the balance is reviewed by its external auditors.

2.0.32 No intervenor opposed the $13.2 million adjustment by Enersource to its RSVA power account.

Board Findings

2.0.33 Toronto Hydro has requested that the Board approve the balance without any adjustment. At the time of writing this decision, the Board has not received any further information on this issue from Toronto Hydro. In disposing of deferral account balances, the Board must have the best information possible. This would include any material adjustments due to IMO's over or under billings. We cannot accept the proposition that the balance in the account for Toronto Hydro should be disposed of as originally filed. Unless Toronto Hydro is able to file and support updated values for its RSVAs on the schedule contemplated by the Board for implementing rate changes, as set out later in this decision, the Board will withhold disposition of Toronto Hydro's RSVA balances. We accept

Enersource's adjustment on the basis that it reflects the best information available.

Allocation and Recovery: All Applicants

2.0.34 LPMA, CCC, Energy Probe, VECC, SEC, CME and Hamilton Hydro supported the allocation of the RSVAs to customer classes based on energy consumption. VECC and SEC also supported the recovery of these accounts through the variable component of the distribution charge, while VECC and CCC supported Hydro One's allocation between market and non-market participants.

Board Findings

2.0.35 The Board finds that the RSVA balances shall be allocated to customer classes on the basis of energy consumed, that is kWhs. This is consistent with the principle of cost causality and the Board's interim decision in Phase 1. No intervenors objected to this approach.

2.0.36 In the case of Hydro One, the proposal is to allocate the balances in Accounts 1580, 1582 and 1588 to non-market participants only including Legacy, Acquired LDCs, Directs and Embedded LDCs based on kWhs. The proposal is to allocate these costs to the customer classes on the same basis. The Board concurs. For Accounts 1584 and 1586, the proposal is to allocate balances to all customers who pay transmission charges based on kWhs although transmission charges are billed to Embedded LDCs and Directs on a demand basis. Hydro One proposed that the same allocator be used to allocate these costs within the customer groups that are normally billed for these charges on energy use. However, for customer groups that are billed on demand (LDCs and Directs), Hydro One proposed to use demand as the allocator. The Board concurs.

3. Pre-Market Opening Energy Variance Account (1571)

3.0.1 Prior to market opening in 2002, cost of power (COP) winter rates were higher than the summer rates, but the distributors charged non time-of-use (TOU) customers a constant rate over the whole year. As a result, distributors experienced under recovery in the winter, which was offset by over recovery during the summer. New COP rates were implemented on May 1, 2002 when the market opened. Consequently, the under recovery experienced from January to March of 2002 was only partially offset by one month of over recovery in April 2002.

3.0.2 APH220 directs distributors to record in Account 1571 the difference between its TOU cost of power and the amount billed to non-TOU customers. The Board's January 15, 2004 Filing Guidelines instructed distributors to restrict amounts recorded in this account to the period January 1, 2001 to April 30, 2002 (the date prior to the opening of the electricity market in Ontario). There is no mention of applying carrying charges in respect of this account in the APH, DRH or the Board's Filing Guidelines.

Hydro One

3.0.3 Hydro One claimed $4.1 million in Account 1571 for Acquired LDCs, including $0.4 million in carrying charges. Hydro One stated that it did not record a variance for 2001 because seasonal variances are offset over the full year.

3.0.4 Hydro One calculated the cost of power attributable to non-TOU customers by taking the difference between the actual purchase volumes and COP for each Acquired LDC on TOU rates (taken from the applicable 2002 Ontario Power Generation (OPG) invoices) and the cost of power billed to each Acquired LDC's customers (as determined by applying each Acquired LDC's specific average annual non-TOU rate to its 2002 actual GWhs for the 2002 pre-market opening period).

3.0.5 Hydro One pointed to historical precedence in gas decisions and references in the APH and DRH to support its application of carrying charges to this account.

3.0.6 Hydro One proposed that this account be allocated to its Acquired LDC customers who, prior to market opening, charged their customers non-TOU rates for energy consumption but had Hydro One purchase wholesale power on their behalf at TOU rates. Hydro One suggested that the amounts recovered from each Acquired LDC should be allocated to the respective LDC while these costs should be allocated to customer classes within each LDC based on kWhs. Hydro One noted that this methodology is consistent with APH220 and the cost causality that is associated with the tracking and recording directives of Account 1571 and the direction given in the Board's January 15, 2004 Filing Guidelines.

Toronto Hydro

3.0.7 Toronto Hydro reported separate amounts for 2001 and 2002 and used a different method to calculate the variances in each year. The accrual approach used to record revenues in 2001 is composed of both the calendar month portion of billed revenues and an unbilled component. Therefore it was necessary to calculate the unbilled portion. The December 31, 2001 balance of negative $2,915,765 was determined in part by using the legacy unbilled calculation component of the Applicant's Customer Information System (CIS). Since this component of Toronto Hydro's billing system was no longer compatible with the market opening version of the CIS software, Toronto Hydro relied on a proration of billed consumption into calendar months to determine the 2002 balance of $23,998,166.

3.0.8 In essence, Toronto Hydro determined the cost of power for all non-TOU customers by subtracting the cost of power revenue from the TOU billed classes from the total cost of power expense. This was then compared with the unbundled revenues received from non-TOU customers to determine the variances for 2001 and 2002. The cumulative balance in this account as of December 31, 2003 is $21,082,401. Toronto Hydro stated that this amount has been carried without interest.

3.0.9 Toronto Hydro stated that Account 1571 should be allocated only to non-TOU customers based on kWhs, consistent with APH220 and the direction given in the Board's January 15, 2004 Filing Guidelines. Toronto Hydro admitted that a small number of customers, which were on optional TOU rates before market opening, will also bear these costs. Toronto Hydro cannot differentiate these customers from the rest of the residential class because the customers were forced to go to non-TOU rates after market opening.

Enersource

3.0.10 Enersource claimed a 2001 balance of $1,566,766 and a 2002 balance of $8,304,186 for a cumulative total of $10,975,910 including $1,105,010 in carrying charges. Enersource determined the cost of power attributable to TOU customers by applying the average wholesale cost of power, as determined from the OPG invoices, to the monthly TOU billing quantities, rather than on the basis of revenue received using retail TOU rates.

3.0.11 Enersource applied carrying charges to this account beginning in January 2002, stating that it was not aware of any Board document or reference that directed it not to apply carrying charges.

3.0.12 Enersource stated that allocating this account to non-TOU customers only, based on kWhs, complies with the procedures outlined by the Board in APH220 and the January 15, 2004 Filing Guidelines.

London Hydro

3.0.13 London Hydro claimed $5,427,214 for this account. London Hydro indicated that the key factors affecting the variance were differences in the wholesale power rates and retail power rates based on historical data, weather effects on energy consumption and peak kW demand, billing cycle differences and the seasonal nature of the wholesale rates before market opening.

3.0.14 Like the other Applicants, London Hydro proposed to allocate this account to non-TOU customer classes based on energy usage, consistent with Board guidelines. The methodology proposed includes certain General Service > 50 kW non-TOU customers as a result of using actual non-TOU variances calculated by class. London Hydro stated that it can identify these customers.

Issues Raised

Carrying Charges: All Applicants

3.0.15 VECC submitted that the Board should direct Hydro One and Enersource to restate their Account 1571 balances to exclude carrying charges. Enersource responded that Account 1571 should be eligible for carrying charges because its function is identical to that of the RSVAs. Hydro One also argued that it was appropriate to include carrying charges.

Board Findings

3.0.16 Although Hydro One and Enersource applied carrying charges to this account, there is no explicit authority to do so within the APH, DRH or the Filing Guidelines.

3.0.17 The Board's general practice however, is to authorize the recording of interest if the deferral accounts are considered to be long term in nature, generally more than one year. In our view, there is no reason to depart from this general approach. In the instant case, certain Applicants included carrying costs without explicit Board authorization in a number of accounts, specifically Accounts 1571, 1508, 1518, 1548, 1525. The Board notes that all of these accounts turned out to be longer term than was originally anticipated. We therefore consider it reasonable for the Applicants to apply interest to the balances, positive or negative, in these accounts. The Board directs the Applicants to do so in their revised filings if they have not already done so. This finding is applicable to all of the relevant regulatory asset accounts.

Line Loss Variance: Toronto Hydro

3.0.18 VECC submitted that the Board should direct Toronto Hydro to include its pre-market opening line loss variance of negative $2.9 million in the account. Toronto Hydro responded that while the Board directed it to track the variance between the 5% Board-approved loss factor implemented on June 1, 2001 and Toronto Hydro's historical loss factor of 3.1%, the Board did not order it to record the difference in a regulatory asset account. Accordingly, Toronto Hydro accounted for the variance in its financial statements but removed it from its regulatory asset claim.

Board Findings

3.0.19 Notwithstanding the fact that Toronto Hydro has identified and tracked pre-market opening line loss variances associated with all their customers in Account 1571, the Board finds that this amount does not belong in Account 1571 as it is not clear that it is exclusive to non-TOU customers and agrees with Toronto Hydro's decision to remove this amount before submitting its claim. All distributors were directed to track any variances between the Board-approved loss factor and their own loss factor experience at the time of the implementation of the wholesale energy surcharge (June 1, 2001). However, the Board is not disposing these variances in this proceeding, with the exception of Hydro One's special case regarding a four month period in 2001, dealt with elsewhere in this decision.

Calculation and Reporting: All Applicants

3.0.20 VECC submitted that the Board should direct Enersource to restate their Account 1571 balances to account properly for distribution losses associated with TOU customers. VECC also asked the Board to direct Enersource to recalculate its 2002 balance to recognize the reversal of the December accrual and the inclusion of the April accrual applicable to non-TOU customers.

3.0.21 Energy Probe recommended that all four Applicants re-calculate the amounts for this account based on a common methodology and outlined two possible options. Option 1 was described as:

> Pre-market opening account Variance ($) =
> Non-TOU COP Billed Revenue - Non-TOU COP expense
>
> Where,
>
> Non-TOU COP expense ($) =
> Total COP expense - TOU COP Billed Revenue

3.0.22 Enersource revised its calculations for Account 1571 to reflect the submissions of VECC and Energy Probe and to include carrying charges for 2001. The revised calculations represent a reduction of $547,255 from the $10,975,910 originally claimed for a revised total of $10,428,655.

3.0.23 Energy Probe’s recommendation was rejected by Hydro One, Toronto Hydro and London Hydro. Hydro One responded that Energy Probe’s proposal is “untimely and unreasonable” because, in Hydro One’s case, the OPG invoices and customer bills prior to the acquisition of the 87 distributors are not readily available. London Hydro argued that Energy Probe’s recommendation does not stem from a belief London Hydro’s calculation is wrong, but rather, that the positive TOU COP variance should be used to reduce the negative non-TOU variance. Toronto Hydro argued that Energy Probe’s requested recalculating is unreasonable, but noted that its own methodology is only slightly different from the first of Energy Probe’s two options. Enersource revised its calculations, as explained above.

Board Findings

3.0.24 The Board seeks consistency among distributors in calculating balances in Account 1571. Energy Probe’s Option 1 is an appropriate method and is consistent with the purpose of this variance account as outlined in the APH and the January 15, 2004 Filing Guidelines. We therefore accept the methodology used by London Hydro, Toronto Hydro and Enersource (as revised) because each closely approaches Energy Probe’s Option 1. Given the complexities cited by Hydro One, we will not require Hydro One to recalculate the amounts as suggested by Energy Probe.

Allocation and Recovery: All Applicants

3.0.25 Most intervenors either agreed with the Applicants’ common methodology of allocating Account 1571 to non-TOU customers on the basis of energy consumption or were silent on the issue**.** VECC supported the allocation of the 2002 balances to the non-TOU customers on the basis of energy consumption but recommended that the 2001 balances be allocated to all customers by energy consumption because of the multitude of factors that account for the 2001 variance other than seasonality.

3.0.26 Energy Probe argued that Toronto Hydro should be required to treat previous TOU customers fairly, particularly in light of Ontario's current commitment to a new smart metering program, by not allocating any 1571 costs to them. Toronto Hydro replied that it is not practical to remove these customers from their current classes and undertake a separate cost allocation process for each billing cycle.

Board Findings

3.0.27 We do not accept VECC's suggestion to allocate 2001 balances in Account 1571 to all customers. While some amounts in this account may be the result of factors other than seasonality, we have no evidence as to what these amounts would be. The primary purpose of this account was to address seasonality. We find that the amounts granted for recovery in Account 1571 should be recovered from non-TOU customers only, allocated to these classes by the proportion of kWhs used. This was the generally accepted methodology by Applicants and intervenors. We do not find that the complexity of Energy Probe's approach is warranted given the amounts involved.

4. Retail Cost Variance Accounts (1518, 1548)

4.0.1 Distributors incurred costs related to the implementation of Electronic Business Transaction (EBT) Standards, which are designed to facilitate the operation of the retail market. The Board developed a set of charges for retail services with the understanding that the actual costs to provide these services might vary. Under the DRH and APH490, distributors are required to establish variance accounts to record the difference between the charges and the actual costs of providing retail services. A distributor must establish at least two variance accounts:

- Account 1518 RCVA Retail to record the difference between the amounts billed and the incremental costs of providing regulated retail services such as establishing service agreements, distributor consolidated billing, retailer consolidated billing and split billing

- Account 1548 RCVA STR to record the difference between the amounts billed in relation to a Service Transaction Request (which may include request for enrollment, consumer historical information, a meter change out, a change of consumer information or location or a drop to Standard Supply Service, etc) and the incremental costs of providing the initial screening and actual processing for the Service Transaction Request.

4.0.2 APH490 directs the recording of only incremental costs associated with providing these retail services. The information from the balances and the quarterly monitoring reports filed with the Board are to be used to establish future rates for retail services that better reflect the costs.

4.0.3 In accordance with APH490, the materiality test outlined in the DRH is not to be applied to the RCVAs until further direction is given by the Board. In addition, there is no provision in the APH for the application of carrying charges to the RCVA accounts.

Hydro One

4.0.4 Hydro One claimed $0.217 million in Account 1518 RCVA Retail and $0.359 million in Account 1548 RCVA STR. Hydro One included $67,000 in carrying charges.

4.0.5 Hydro One proposed to allocate these accounts to all customers and not only to retailers, or customers of retailers, on the basis that all customers benefit from the open electricity market and therefore should share the cost of realizing competition. Hydro One proposed to allocate these costs to the customer groups and to the classes within these groups on the basis of number of customers.

Toronto Hydro

4.0.6 Toronto Hydro did not make any claim in respect of the RCVA accounts, as the balances did not meet the materiality threshold outlined in the DRH. In response to an undertaking, Toronto Hydro provided balances for the two accounts: the balance in Account 1518 RCVA Retail is negative $831,498 and the balance in Account 1548 RCVA STR is $1,064,411. No carrying charges were reported.

Enersource

4.0.7 Enersource also did not claim any amounts related to the RCVA accounts. It did not track the costs associated with these accounts because, in its view, it was not cost effective. Enersource estimated that costs equal revenues earned. In response to an undertaking, Enersource provided a figure of $506,389 in estimated retailer-related costs, excluding carrying charges. In its prefiled evidence it reported revenues of $487,098.

London Hydro

4.0.8 London Hydro claimed a total RCVA balance of $87,401; negative $58,802 for Account 1518 RCVA Retail and $28,599 for Account 1548 RCVA STR. Carrying charges were not applied.

4.0.9 London Hydro proposed to allocate these accounts to all customer classes based on the relative percentage of customers in each class that purchase their commodity from a retailer. London Hydro maintained that the difference between using the percentage of customers under contract to retailers and the overall number of customers is immaterial. The former approach was taken because it was considered the most precise cost-allocation methodology that could be used.

Issues Raised

Materiality

4.0.10 London Hydro and Hydro One recorded the revenues and costs associated with these accounts and sought recovery. Toronto Hydro recorded the revenues and costs but did not seek recovery on the basis that the balances were below the threshold materiality level. Enersource recorded and reported the revenues but estimated that costs equaled revenues on an annual basis. This information was provided by both Toronto Hydro and Enersource through responses to undertakings. There was a suggestion by VECC that going forward, the distributors should report this information regardless of materiality, so that the Board would have the information to assess the reasonableness of current retailer charges.

Board Findings

4.0.11 We note that there are two references in Board documents that speak to the materiality criterion regarding the RCVA accounts. First, the Board's Rate Handbook, Section 11.4, indicates that these accounts are subject to the same eligibility criteria as transition costs as shown in Section 5.5.1 of the Handbook. One of these criteria is materiality. Second, Article 490 of the Accounting Procedures Handbook, released in November 2001 states (with reference to the eligibility criteria at Section 5.5.1 of the DRH) that the materiality guideline will not be applied to RCVA accounts, since more information is required to develop rates in the future.

4.0.12 APH490 is more current and clearly supersedes the Rate Handbook reference. However, given the relative insignificance of the balances in the RCVA accounts as revealed in this proceeding, the Board will not require recording and filing of this information if a distributor has not already done so. It is likely that the assessment of the reasonableness of the current charges for future consideration can be accomplished through filings by the present Applicants and by other distributors who plan to report balances in these deferral accounts. It may be that these accounts will not be needed in the future.

Carrying Charges: All Applicants

4.0.13 As detailed in the Board's findings with respect to Account 1571, carrying charges may be applied to this account. Accordingly, London Hydro may submit revised balances.

Allocation and Recovery

4.0.14 Energy Probe recommended that these amounts be allocated on the basis of number of customers supplied by retailers. LPMA submitted that customers not using the services of a retailer, should not be expected to pay for these costs. Similarly, VECC and CCC submitted that these amounts should be allocated to the retailers themselves. VECC added that these costs should be recovered by adjusting actual retail service charges in 2005 by including any recovery as a rider in the new rates.

4.0.15 Hydro One indicated that VECC's and CCC's approach would be difficult to administer. Many retailers may have changed or gone out of business and many customers may have enrolled with different retailers at different points in time. The small benefit to some customers from this approach is outweighed by the considerable complexity and increased cost involved in allocating these costs either to retailers or to current or former customers of retailers. London Hydro responded that given the relatively small amounts involved on a per customer basis, it would accept any approach decided by the Board.

Board Findings

4.0.16 There were varied opinions among the Applicants and intervenors as to the proper allocation of the balances in these accounts. Cost causality would support allocation of the balances to either the retailers or to the distributor's customers on retail service. It would be impractical to charge the retailers, as many of these entities may have changed or are no longer in existence. Charging customers of retailers would be cumbersome as the same customers may have been served by different retailers at different points in time, and not necessarily seamlessly. Allocation to rate classes in proportion to the relative customer count on retail service has the attraction of adhering to the cost causality principle but it may prove problematic for some distributors. We are of the view that Hydro One's suggestion to allocate these costs on a per customer basis has merit given the relative insignificance of the balances in these accounts and the practicality of such an approach. We find that the balances in these accounts shall be allocated to rate classes according to customer count.

5. Miscellaneous Deferred Debits (1525)

5.0.1 Two types of costs were recorded in this account. Costs associated with the $75 rebate cheque issued to low volume customers arising from the *Electricity Pricing, Conservation and Supply Act* (Bill 210), and, for Hydro One exclusively, costs associated with its Environmental program. We will address each in turn.

Rebate Cheque Costs

5.0.2 On December 9, 2002, Bill 210 was passed into law, capping electricity rates for certain customers at 4.3 cents per kWh and providing for rebate payments to certain low volume customers. Distributors were required to make a rebate payment of $75 in the form of a cheque to each residential and low volume customer. The legislation also provided for the recording of the expenses incurred by distributors in providing the rebates in a deferral account for future recovery in rates.

5.0.3 In its September 15, 2003 Filing Guidelines, the Board directed distributors to record the costs associated with rebate cheques in Account 1525. Distributors are required by APH220 to maintain records supporting the entries in this account such that they can provide complete information as to each deferred debit included, such as cheque processing, postage etc. There is no explicit provision for carrying charges on this account.

Hydro One

5.0.4 Hydro One reported its $2.1 million claim (excluding interest) for rebate cheque costs in a sub-account of Account 1508 instead of in Account 1525 per the Board's September 15, 2003 Filing Guidelines. However, we will deal with the amount here. Hydro One also claimed other costs associated with Bill 210 requirements, including implementation of fixed pricing for eligible customers, customer education and other initiatives. Hydro One argued that these costs could have been recorded as transition costs, but it opted to record these costs together with rebate cheque costs. The total balance claimed is $6.5 million, including $0.4 million in carrying charges.

5.0.5 Hydro One proposed to allocate these costs to Core customers, customers of the Acquired LDCs and customers served by retailers, since these customers received the rebates that resulted from Bill 210. Hydro One proposed that the allocation be based on number of customers. The same allocator is proposed for the apportioning of these costs to the customer classes within these groups.

Toronto Hydro

5.0.6 Toronto Hydro claimed a balance of $200,377 representing the processing fees that were charged by the bank which issued and processed the $75 rebate cheques to 209,448 customers. No carrying charges were applied.

5.0.7 Although Toronto Hydro has stated that the rebate cheques were targeted to non-Standard Supply Service customers, it did not propose an allocation methodology for the recovery of this account. In its prefiled evidence, Toronto Hydro suggested that the methodology outlined in Phase 1 of this proceeding remains valid until the Board informs interested parties otherwise or conducts a proceeding specifically for this matter.

Enersource

5.0.8 Enersource originally claimed a balance of $248,819, but subsequently revised this amount to $231,999. Enersource had included carrying charges of $16,820 in this account but had also included the same amount in Account 1570, so a reduction was required in Account 1525 to avoid double counting. Enersource claimed $49,130 in programming costs which it stated were associated with changes to its CIS system related to identifying, classifying and billing rebate customers. A further $40,387 was recorded in Account 1570.

5.0.9 Enersource viewed the allocation of this account by distribution revenue as appropriate and consistent with the Board's January 15, 2004 Filing Guidelines.

London Hydro

5.0.10 London Hydro included the costs of issuing the Bill 210 rebate cheques in Account 1508 instead of in Account 1525 per the Board's September 15, 2003 Filing Guidelines. However, as with Hydro One, we will deal with the amount here. London Hydro claimed $240,289, which represents $1.93 per cheque for processing, mailing, and postage.

5.0.11 London Hydro proposed to allocate the amounts in this account to the residential and general service < 50 kW classes based on number of customers, and also proposed to recover these costs through a mark-up on the commodity charge on a per kWh basis since the rebates represent a refund of commodity costs.

Issues Raised

Eligibility of Bill 210 Costs: All Applicants

5.0.12 VECC argued that the APH only provides for the costs involved in issuing the rebate cheques. In Hydro One's case, the Board should disallow costs associated with the implementation of fixed pricing and the Market Power Mitigation Agreement (MPMA). In addition, the Board should allow only 65% of the costs associated with customer education. In response to VECC's submission, Hydro One argued that these costs would not have been incurred had the market ready requirements not been imposed. Consequently, these costs could also have been tracked as transition costs.

5.0.13 VECC argued that the programming costs reported by Enersource for implementing Bill 210 were beyond the costs associated with issuing rebate cheques. Enersource responded that it should recover both the $40,387 recorded in Account 1570 and the $49,130 recorded in Account 1525 as both amounts represent programming and additional Bill 210 related costs. Enersource stated that the $40,387 shown in category 8C of Account 1570 was attributable to programming costs directly related to issuing the rebate cheques and that, "there was no evidence to the contrary in that regard." Enersource also adopted the submissions of Hydro One and submitted that its programming and Bill 210 costs totalling $89,517 should be allowed either in this account or as part of transition costs.

Board Findings

5.0.14 All four Applicants included claims for the costs associated with issuing the $75 rebate cheques at the end of 2002. We note that despite clear instructions that these costs be included in Account 1525 (Accounting Procedures Handbook, Frequently Asked Questions, December 2003, Q. 4) London Hydro and Hydro One entered these costs in Account 1508. Hydro One and Enersource also included programming costs associated with the implementation of the fixed pricing and, in addition, Hydro One included costs associated with the implementation of MPMA and customer education costs.

5.0.15 We note that all four Applicants made the $75 payment to eligible customers before December 31, 2002, as required by legislation; they therefore qualify for recovery of the costs associated with the issuance of those cheques. However, we concur with VECC that only the costs that are directly associated with the costs incurred in issuing the rebate cheques should have been recorded and reported for recovery, as was done by Toronto Hydro and London Hydro. We are not convinced by Hydro One's argument that the programming costs associated with the implementation of the fixed pricing and MPMA are additional eligible transition costs. Account 1570 was meant to capture transition costs incurred to open the new market in May 2002. Bill 210, which established the authority for the deferral account for issuing the rebates, came after market opening and cannot reasonably be viewed in the same light.

5.0.16 We therefore direct Hydro One to remove all costs included in categories 2, 3 and 4 as listed in Table 2 of Exhibit G, Tab 7, Schedule 1 because they involve costs that are not directly related to the issuing of rebate cheques, and accordingly adjust their claim by $4,042,000 plus applicable interest. Similarly, the Board directs Enersource to remove programming and other Bill 210 costs that are not directly related to the issuance of rebate cheques. The Board will allow costs incurred for identifying eligible customers, and therefore deems that 25% of the total $89,517 is eligible for recovery. The balance of $67,138 is disallowed.

Carrying Costs: All Applicants

5.0.17 As detailed in the Board's findings with respect to Account 1571, carrying charges may be applied to this account. Accordingly, Toronto Hydro and London Hydro may submit revised balances.

Allocation and Recovery: All Applicants

5.0.18 Energy Probe and LPMA recommended allocating the costs by number of customers having received the rebate cheques. Energy Probe also recommended that all other Bill 210 costs included in this account by Hydro One and London Hydro should be allocated by number of customers. VECC supported the allocation of rebate cheque costs by customer numbers to only the classes that received the cheques but submitted that if other Bill 210 costs are allowed to be recovered, they should be allocated as transition costs.

Board Findings

5.0.19 We note that there was general support for allocating the balances in this account to the customer classes in proportion to the customers in each class that received the rebates. We find this approach reasonable.

Environmental Costs - Hydro One

5.0.20 In accordance with the Board's decision in RP-2000-0023 Hydro One has recorded in Account 1525 the costs incurred in its Secondary Environmental Deferral Account (SEDA), for which it is seeking recovery. Hydro One was authorized to establish the SEDA in RP-2000-0023 in order to facilitate its rate mitigation plan. The Applicant claimed that the actual program costs of $35.6 million were prudently incurred in 2001 and 2002 for the purpose of managing PCB contamination and Land Assessment and Remediation programs. The original estimated amount approved in RP-2000-0023 of $28 million increased to $40.6 million, including $5 million in carrying charges, because of an increased number of sites and more stringent Environment Canada requirements.

5.0.21 According to Hydro One, these expenditures would be best allocated on the basis of asset utilization if the cost causality approach were used. However, Hydro One proposed allocating these costs to all customers on the basis of distribution revenues since the "assets by class" approach has not been reviewed by the Board. In the case of Embedded customers, the implicit Low Voltage (LV) revenues based on the Board approved rates would be used.

Issues Raised

5.0.22 With respect to Hydro One's SEDA, a number of intervenors expressed concern with the level of expenditures recorded in this account. AMPCO suggested that the Board consider allowing only the original amount approved by the Board in RP-2000-0023 ($28 million plus carrying charges). SEC submitted that the balance reported by Hydro One would be more appropriately recovered in a rate proceeding, and added that regardless of whether the Board orders the recovery in this or a future proceeding, it should be in accordance with Hydro One's original proposal of recovering these costs from customers over a period to 2020, rather than accelerating the recovery period.

5.0.23 Hydro One opposed AMPCO's recommended disallowance and reiterated that the work was important for health, environmental and legal reasons. With respect to SEC's submissions, Hydro One argued that the original amortization period of the SEDA recovery was based on rate mitigation requirements and because the recovery of the deferral accounts currently under consideration will result in a decline in Legacy customer rates for 2005, there is no need to defer recovery. Since it received direction from the Board in RP-2000-0023 to seek disposition of this account in its next distribution rate application, Hydro One argued that this is in fact the appropriate proceeding to seek recovery.

5.0.24 No intervenor opposed Hydro One's proposed allocation of the environmental costs, although SEC took the position that the account should not be disposed of in this proceeding.

Board Findings

5.0.25 Excluding interest, the program's costs increased by $7.6 million over the original estimate. While this remains a material increase, we are satisfied on the evidence that it represents primarily a difference in the timing and scope of the work, rather than cost overruns. We are also of the view that a twenty year amortization is problematic in at least two respects. It introduces unnecessarily high levels of inter-generational inequity, and carrying charges will become exorbitantly high. A shorter amortization period reduces these concerns and would not result in a material rate impact at this time. Given its size, we find no compelling reason not to dispose of this balance at this time as part of this proceeding. For these reasons, we approve Hydro One's proposal. We also approve of Hydro One's cost allocation and rate recovery proposal, which is to allocate these costs to all customers based on distribution revenue and, in the case of Embedded customers, on implicit LV revenues using Board approved rates.

6. Other Regulatory Assets (1508)

6.0.1 The amounts of regulatory-created assets, not included in other accounts, that result from the ratemaking actions of the Board are to be recorded in USoA Account 1508 as outlined in APH220. Distributors are directed to maintain accurate and diligent records of the entries in this account so that they can provide complete information as to the nature, amount and justification for inclusion of such amounts. There is no provision in the APH for the application of carrying charges to this Account.

6.0.2 Toronto Hydro and Enersource made no claims under Account 1508. Hydro One and London Hydro claimed costs related to Bill 210 under Account 1508, but this issue is addressed in the discussion of Account 1525.

Hydro One

6.0.3 Hydro One included a number of sub-accounts within Account 1508, explaining that these were established as a result of the ratemaking actions of the Board and should therefore be included in Account 1508-Other regulatory assets for purposes of this Application. These accounts are:

- Deferred Low Voltage (LV)[9] Costs

[9]Low Voltage refers to facilities consisting of lines, stations, and ancillary assets operating at less than 50kV.

- Variance in Energy Cost Recoverable
- October 1, 2001 Delay in MARR[10] and PILs[11] Increase
- March 1, 2002 Delay in MARR and PILs Increase
- Rural and Remote Rate Protection Variance

We will address each in turn.

Deferred Low Voltage (LV) Costs

6.0.4 In RP-2000-0023, the Board approved the annual recovery of $25.6 million in LV costs from Acquired, Embedded LDCs and Directs. However, section 79.10 of Bill 210 stated that the rates set out in RP-2000-0023 and the associated August 30, 2002 Rate Order that relate to recovery from Embedded LDCs and Directs would not apply to electricity used on or after December 1, 2002. Hydro One stated that Bill 210 was announced November 11, 2002 and the timing was such that it would have been impossible for the rates to have been implemented before the freeze. As a result, these costs have continued to accumulate at a rate of $25.6 million per year. Hydro One is seeking to recover the December 31, 2003 balance of $45.2 million from the above ratepayers. The carrying charges total $2.5 million.

6.0.5 The recovery of LV charges allocated to Embedded LDCs and Directs requires the establishment of new rates and charges for these customers. A pass-through mechanism would then be required if the Embedded LDCs were allowed to recover these costs from their customers. Hydro One stated that in the absence of an approval by the Board to recover these costs from its Embedded customers, it seeks to recover these costs from its Core and Acquired customers.

[10] Acronym for Market Adjusted Revenue Requirement.

[11] Acronym for Payments in Lieu of Taxes.

6.0.6 The allocation of $12.9 million in LV costs to Hydro One's retail customers was also approved in RP-2000-0023. An increment was incorporated in the base rates in October 2002 to recover the approved annualized amount of $12.9 million on a going forward basis from the implementation date. Since the August 30, 2002 Rate Order directed the retroactive recovery of LV costs to May 2002, a second increment was incorporated in the base rates in October 2002 to recover these LV costs for a five month period, essentially recovering amounts retroactive to May 2002. Bill 210 froze all rates, and therefore this second increment was not removed. Consequently, Hydro One recovered an additional $12.9 million from March 1, 2003 to February 29, 2004. Hydro One did not include any of this LV recovery in the Deferred LV account balance, citing as justification the offsetting deferral of the final stage MARR which would have collected $50 million.

6.0.7 Hydro One proposed to allocate the LV costs to Acquired LDCs, Embedded LDCs and Directs in proportion to how the LV costs are incurred. The Applicant suggested that distribution revenues should be used to allocate these costs to the Acquired LDCs' customer classes while shares of the total charges for the group should be used to allocate LV costs within Embedded LDCs and Directs.

6.0.8 Hydro One recommended a fixed dollar amount billed monthly for three years be utilized to recover these costs from Embedded LDCs and Directs. A pass-through mechanism, which would be necessary for the recovery of LV costs by Embedded LDCs from their customers, would then be implemented to recover this fixed dollar amount.

Submissions by Parties

6.0.9 Energy Probe argued that customers should not pay the LV charges approved for recovery from Embedded customers because no deferral account would have been needed if there had not been an implementation delay. Energy Probe concluded that $8.9 million, including $2.534 million in interest accrued from May 2002 to December 2003, should be disallowed from Hydro One's LV deferral account. Hydro One rejected

Energy Probe's assertion that the delay in implementing LV rates for Embedded and Direct customers was an "efficiency failure". Hydro One explained that the amount of time required to prepare customer bills following the completion of the first billing cycles on or after November 1, 2002, prevented it from implementing the rates before the announcement of Bill 210.

6.0.10 SEC and CCC submitted that Hydro One's LV claim should be reduced to reflect the over-recovery of LV charges from its Core customers. In SEC's view, Hydro One has been collecting $2.58 million per month since March 2003 for a total of $61.9 million to the end of February 2005, while the allowed recovery was $12.9 million per annum or $25.8 million to the end of February 2005. The difference of $36.1 million should be disallowed. SEC argued that, in addition, the accelerated recovery rate will be in place until the 2006 rate year. Consequently, SEC submitted that Hydro One will recover $31 million from March 2005 to February 2006 or $18.1 million more than approved. SEC concluded that Hydro One's regulatory assets claim should be reduced by a total of $54.2 million for this item.

6.0.11 In response, Hydro One argued that SEC's description of the $12.9 million over-recovery was inaccurate and that the actual monthly amount included in the rates for the five month period October 1, 2002 to February 28, 2003 was not $2.58 million but $2.15 million for a total of $10.75 million. Furthermore, Hydro One stated that the rate changes on April 1, 2004 reduced the amount of the LV recovery to $12.9 million annually or $1.075 million per month.

6.0.12 Hydro One also argued that distributors did not have the ability to change rates without the permission of the Minister. Therefore, Hydro One's previously approved March 1, 2003 rate increase could not be implemented, nor could the LV recovery be removed from rates without a new rate order. According to Hydro One it is questionable whether the Board could alter the order by disallowing $10.75 million (not the $12.9 million as asserted by SEC), as this would in effect constitute a change to the rate order which had not been authorized by the Minister.

6.0.13 CCC and VECC supported the allocation and recovery of LV costs as proposed by the Applicant but did not support the recovery of these costs from the Core and Acquired customers as an alternative proposed by Hydro One because the Core customers and Acquired LDCs are not responsible for these costs.

6.0.14 AMPCO submitted that a clear proposal on when the LV recovery rate will be implemented needs to be addressed by the Board and Hydro One as soon as possible. AMPCO suggested that the schedule of recovery of all LV costs, including those incurred after December 31, 2003 to the time of the LV rate implementation and those incurred after the rate is implemented, should be coordinated to avoid unacceptable increases in charges as all the charges are combined. Similarly, EDA submitted that if the Board were to allow the recovery of LV charges by Hydro One then a coordinated flow-through of costs should be put in place to avoid unnecessary carrying charges for the customers of those distributors.

6.0.15 ECMI suggested that distributors should be allowed to apply for a rate rider to recover these LV costs and that the implementation of this rate rider should coincide with Hydro One’s approved recovery.

6.0.16 SEC proposed immediate recovery of past and current charges which will recover an amount of $70.8 million up to December 31, 2004 ($45.2 million + $25.6 million) through a one-time charge to Embedded LDCs and Directs. SEC further proposed that Embedded LDCs should be allowed to include their LV costs charged by Hydro One in their regulatory assets claim.

6.0.17 Energy Probe suggested that the Board request Hydro One to provide an explanation for the approach taken to allocating LV costs to Acquired LDCs, suggesting that the Applicant is silent on this issue in its evidence. However, Energy Probe suggested that whatever the criteria chosen, the result of the allocation is that some similar LDCs will experience “vast differences” in distribution rate impacts. Energy Probe proposed that LV charges be allocated to Acquired LDCs on a kWh basis which will result in annual average charges for similar LDCs that will be closer than Hydro One's proposal.

6.0.18 Hydro One submitted that contrary to Energy Probe's argument, it was not silent on the issue of allocating deferred LV costs for each Acquired LDC. Hydro One stated that it provided evidence on how these costs should be allocated to each Acquired LDC and that the costs within each LDC be allocated based on distribution revenue. Furthermore, Hydro One noted that the variance between Acquired LDCs regarding the distribution rate impacts is a result of each individual utility's use of the LV facilities and the corresponding approved rates.

Board Findings

6.0.19 Energy Probe argued that a portion of this amount should be disallowed as it is attributable to Hydro One's inefficiency by delaying the implementation of the Board's decision. We are not persuaded by Energy Probe's argument. Bill 210 specifically directed Hydro One to establish a deferral account relating to LV rates. We interpret this to be the recording of foregone amounts arising from not implementing the LV rates for Embedded LDCs, Acquired LDCs, and Direct Customers.

6.0.20 With the freezing of rates under Bill 210, an additional amount of approximately $10.75 million was recovered from Core customers. CCC argued that a credit be given to Core customers. SEC argued that Hydro One continues to over recover. We do not accept SEC's argument as they erroneously assume that the monthly allowance in current rates is $2.58 million ($12.9/5). The allowance in current rates is $1.075 million ($12.9/12). This leaves the issue of whether a credit of $10.75 million should be provided to Core customers. To find so would amount to selectivity and would be contrary to the letter of Bill 210. There were many anomalies created with the passage of Bill 210. This is one example. The relief sought is, as it should be, the recovery of foregone amounts caused by not implementing rates for certain customers (Embedded LDCs, Acquired LDCs and Directs), not to capture any over or under recoveries from rates that were implemented when Bill 210 came into force, which is the implication of the arguments by CCC and SEC.

6.0.21 With respect to allocation, we agree with the intervenors that recovering these costs from Hydro One's Core customers and Acquired LDCs would not be fair since they are not responsible for these costs. We find that the deferred cost should be recovered from the three customer groupings (Embedded LDCs, Acquired LDCs and Directs). We agree that a mechanism is required to allow Embedded LDCs to recover these charges from their own customers. We deal with this matter elsewhere in this decision.

Variance in Energy Cost Recoverable

6.0.22 On June 1, 2001, Ontario Power Generation was authorized to increase the energy component for the wholesale cost of power by 0.7 cents per kWh. Due to internal billing limitations, Hydro One was only able to incorporate a rate adder reflecting a loss factor of 4.3% rather than the Board-approved level of 5%. The billing limitation was corrected by October 2001. This resulted in an under-recovery of $1.962 million for the period June 1, 2001 to September 30, 2001. Hydro One claimed $2.265 million including carrying charges. Hydro One proposed to allocate the amount in this account to Core customers only based on energy usage.

Submissions by Parties

6.0.23 ECMI suggested that if the Board validates the inclusion of this account in this proceeding, it should consider that the variance should have been tracked in Account 1571 because it is part of pre-market opening energy variances. In addition, Hydro One should have tracked and recorded line loss variances for the entire approved pre-market opening period and not just for a four month period in 2001. ECMI suggested that the Board may wish to disallow the $2.332 million claimed in this account or direct Hydro One to adjust the amount for the entire period in question. Hydro One responded that the Board directed it to account for this variance in the May 30, 2001 Rate Order by establishing a deferral account and that ECMI ignored this fact in stating that Hydro One selectively chose an amount/recovery period.

6.0.24 VECC and SEC supported Hydro One's proposal to allocate the amounts associated with line losses only to its Core customers based on energy and that the recovery should be through the variable charge.

Board Findings

6.0.25 The Board accepts Hydro One's recovery of this account in full as well as the allocation as proposed by the Applicant. In making this finding, the Board recognizes that Hydro One was granted a deferral account for the under collection in retail revenues including the tracking and recording of any variances that may arise from applying a loss factor that did not reflect the Board-approved loss factor.

October 1, 2001 Delay in MARR and PILs Increase (Acquired LDCs)

6.0.26 Hydro One calculated the incremental revenue requirement to achieve a 9.88% ROE as well as an estimate of the total Payments in Lieu of Taxes (PILs) payable, assuming a full return and an effective tax rate of 44.49%, to be implemented over a three year period in three equal installments. In RP-2000-0023 the Board approved the tracking and recording of the additional distribution revenues that would have been collected between the effective date and the implementation date for first stage Market Adjusted Revenue Requirement (MARR). The first distribution rate adjustment was effective October 1, 2001 but not implemented until February 1, 2002. Hydro One claimed a balance of $2.1 million in this sub-account, including $0.3 million in carrying charges.

6.0.27 Hydro One proposed to allocate this account to Acquired LDCs only, on a distributor by distributor basis, and to allocate these costs within the Acquired LDCs based on distribution revenue for each customer class.

Submissions by Parties

6.0.28 The only issue raised related to carrying charges, and this has been dealt with elsewhere in this decision.

Board Findings

6.0.29 We find the claim to be reasonable. We also find Hydro One's cost allocation and rate recovery proposals to be reasonable.

March 1, 2002 Delay in MARR and PILs Increase (Acquired LDCs)

6.0.30 This sub-account captures the additional distribution revenues that would have been collected from Acquired LDCs between the date the second stage MARR rates and the related PILs impact would have been effective (March 1, 2002) and the date that Bill 210 was announced (November 11, 2002). The Applicant stated that second stage MARR was not implemented due to a Board requested delay (in a letter dated January 25, 2002) to deal with the large volume of applications which lasted until the announcement of Bill 210. Hydro One claimed a balance of $4.7 million, including $0.4 million in carrying charges.

6.0.31 The Board did not approve the establishment of this deferral account. Hydro One argued that the second increment should be authorized because these amounts were collected by other distributors whose applications were processed before Bill 210 and because the only reason the recovery for Hydro One was not authorized was because the Applicant accommodated a Board request to delay implementation.

6.0.32 Hydro One proposed to allocate this account to Acquired LDCs only, on a distributor by distributor basis, and to allocate these costs within each Acquired LDCs based on distribution revenue for each customer class.

Submissions by Parties

6.0.33 VECC recommended that the Board reject Hydro One's claim because the Applicant had no authority to establish the sub-account and it is predicated on rates that were neither reviewed nor approved. VECC argued that Hydro One's logic in establishing this account is inconsistent with the Applicant's position on the over-recovery of LV charges from Core customers. If the Board decides to allow this recovery, VECC submitted that the Board should consider reducing Hydro One's total claim for the LV over-recovery from Core customers. In response, Hydro One argued that had the Board been able to process the applications before the announcement of Bill 210, it would have treated Hydro One in a manner consistent with other distributors whose applications were processed in time and approved. It argued that, contrary to VECC's claims, it is in fact being consistent in the treatment of Bill 210 effects by requesting recovery for only the timing difference from March 1, 2002 to November 10, 2002.

6.0.34 No intervenor opposed the proposed allocation of this account.

Board Findings

6.0.35 VECC argued for disallowance on the basis that Hydro One wrongly assumed that the Board would have approved the applications. In our view, this is not the issue. Rather, the issue is whether Hydro One is entitled to its claim. We think not. Bill 210 brought about numerous anomalies in the rate regime for electricity distributors. To allow such a claim would be contrary to the intended effect of Bill 210. It would also not be consistent with our earlier finding regarding Low Voltage where the impact of Bill 210 was beneficial to Hydro One, but no adjustment was made. Hydro One's claim is denied.

Rural and Remote Rate Protection Variance (RRRP)

6.0.36 Hydro One currently receives rural and remote rate protection amounts from the IMO under the authority of Ontario Regulation 442/01. The total amount was set in the Regulation at $148.3 million in 2002 and $148.1 million in 2003. This amount has been collected at the rate of 0.1 cents per kWh added to the Wholesale Market Service Charge, which was approved by the Board in 2002.

6.0.37 Ontario Regulation 442/01 established an annual true-up mechanism whereby the Board reviews the over or under-collection of RRRP from the prior year and the IMO forecast energy level for purposes of setting the rate for the following year. Bill 210 has prevented these annual adjustments in 2002 and 2003, and Hydro One reported a December 31, 2003 balance of $0.947 million. Hydro One stated that it should recover the variance through the normal adjustment process rather than from its customers through this proceeding.

6.0.38 No intervenor objected to Hydro One's proposal for this account.

Board Findings

6.0.39 The Board concurs with Hydro One's proposal.

7. Transition Costs (1570)

7.0.1 In its January 15, 2003 Transition Cost Guidelines, the Board recognized that distributors incurred costs to prepare for and operate in a competitive commodity market. These costs were associated with modifying the distributor's structure and operations to prepare for new activities associated with an open electricity market. Those costs to be included for potential recovery were to be primarily incremental, one-time costs, not new, ongoing costs which are associated with normal operations in the open market.

7.0.2 APH220 directed distributors to record "qualifying" transition costs in Account 1570. APH480 listed ten categories of activity under which transition costs would be recorded and directed distributors to maintain records in a manner which would permit ready identification of each cost and allow the Board to conduct a meaningful review of the activities and costs recorded in each category. The costs collected under each category would be recorded in a separate capital and/or non-capital sub-account. The capital sub-account includes capital assets that are generally included in a distributor's rate base while the non-capital sub-account records the related annual amortization expense and operating and maintenance costs. Distributors were required to report all eligible transition costs incurred from January 1, 2000 to December 31, 2002, and on an exception basis after that date. Carrying charges are applicable at the debt cost rate established in DRH Table 3-1, applied as simple interest based on the monthly opening balances in the account.

7.0.3 In accordance with APH480, transition cost eligibility is based on utility specific circumstances and is to be determined based on the eligibility criteria established in section 5.5.1 of the DRH. Accordingly, distributors are required to apply the four-part criteria test of causation, materiality, prudence and inability of management to control. In its January 15, 2003 Filing Guidelines, the Board determined that the materiality criterion should be applied on a period basis, rather than on an annual basis as provided for in APH480. However, the materiality test is still to be applied to the various transition cost initiatives as listed in APH480, on an ungrouped or segregated basis. APH480 states that the aggregation of costs that belong in a different category of activity is not permitted in order to meet the materiality (and causality) criteria in the DRH.

7.0.4 Under the Filing Guidelines, distributors are required to demonstrate that the initiatives undertaken meet the criteria of the DRH. The guidelines require the tracking, recording and reporting of costs and the preparation of a Management Representations report which would include any supplementary evidence that may be required to demonstrate eligibility.

7.0.5 APH480 states that the financing costs incurred by utilities to purchase capital assets required for transition "will neither be accumulated in the deferral account nor permitted as a regulatory expense." However, APH410 allows for the capitalization of financing charges related to assets under construction. APH410 states that the allowance for funds used during construction (AFUDC) must be a reasonable rate up to a maximum allowable limit equal to the Debt Cost Rate and directs distributors to stop capitalizing interest when the asset under construction is "substantially complete and ready for productive use." At this point the balance, which has been tracked in the Construction Work In Progress account, is transferred to the Transition Cost deferral account where simple interest is then applied to the opening monthly balance to the end of December 2003.

7.0.6 APH480 requires distributors to amortize the capital components of the Transition Cost account in a manner similar to which those assets would be amortized had they been included in rate base.

Board Observations

7.0.7 Before we turn to the assessment of Applicant-specific issues relating to transition costs claims, we wish to provide some general comments on this issue.

7.0.8 Regulated utilities should not expect recovery of costs without review. The Board must review such costs if they are to be recovered from ratepayers, and ratepayers whose economic rights are being affected are given the opportunity to participate in such review. The idea that such review cannot be retrospective is without merit. A prudence review by definition must look back to decisions made and actions taken. However, a prudence review must consider, and the Board's practice has been to consider, the circumstances known at the time decisions were made, not with the benefit of hindsight.

7.0.9 The context in this case is important. As was generally acknowledged, not to undertake the initiatives needed to meet the requirements of market restructuring was not an option for distributors. The utilities had to comply with the demands of Government legislation and directives, and the requirements set by the Ontario Energy Board and the Independent Market Operator. The utilities also had to deal with a number of changing requirements and circumstances during the move toward market opening. It was generally acknowledged, and we agree, that it was a challenging period for the distributors and many aspects of the initiatives and expenditures were beyond the control of management. This context weighed heavily in our assessment of the prudence of transition costs incurred.

7.0.10 The cost effectiveness of decisions made and actions taken must be seen in light of the circumstances in which those decisions were made. transition costs claims may be higher than they would have been under less anomalous circumstances. Speculation as to what the costs might have been under a different environment is not productive. While the higher costs are unfortunate, we do not see it as appropriate to penalize the distributors. The ongoing changes in legislation and in circumstances were essentially beyond the control of the distributors.

Hydro One

7.0.11 Hydro One claimed $43.1 million in qualifying transition costs as of December 31, 2003.

7.0.12 Internal reviews and audits reduced gross transition costs from the original $105 million incurred to a qualifying direct project cost of $53.7 million. Hydro One reported $5.6 million in post-market opening interest for a total qualifying transition project cost of $59.4 million. Hydro One applied carrying charges as an AFUDC rate during the pre-market opening period and as a return on deferred capital from May 2002 to December 2003. As a result of the interim approval received in RP-2000-0023 and RP-2002-0101, Hydro One has recovered $16.3 million of transition costs through its distribution rates from May 1, 2002 to December 31, 2003, resulting in the December 2003 balance of $43.1 million in Account 1570.

Submissions by Parties

7.0.13 CCC submitted that due to the unique size and nature of Hydro One, it cannot be reasonably expected to have shared transition programs with other distributors or to compare itself with other distributors when judging the prudence of transition expenses. The Deloitte study commissioned by Hydro One and its own internal audit demonstrated the appropriate level of management rigour in attempting to understand and, if possible, control costs. VECC accepted the amounts claimed by Hydro One as being prudent and meeting the causation criteria, noting in particular the internal audits undertaken by the Applicant.

7.0.14 SEC argued that 25% or $13 million of Hydro One's transition costs should be disallowed on the basis that a portion of the transition costs involved costs associated with the integration of the billing systems of the 87 Acquired LDCs. Hydro One responded that there is no justification for SEC's recommended disallowance. Hydro One noted that the evidence indicates that rather than mixing multiple computer systems, Hydro One took the new Acquired LDC customers and added their business information into the Hydro One billing system. This in fact represented a significant cost avoidance for the Acquired LDCs with respect to transition costs.

7.0.15 SEC submitted that Hydro One should not be ignoring the interim recovery of transition costs between January 1, 2004 and March 31, 2004, therefore the total claim should be further reduced by $2.4 million. Hydro One responded that it has accounted for the interim recovery of transition costs between January 1 and March 31, 2004 ($2.446 million) in the amount it is proposing to recover effective March 2005.

7.0.16 SEC submitted that amounts recorded for categories 3, 4 and 7 do not meet the materiality criteria and should therefore be disallowed. Hydro One responded that the materiality test should be applied to the total transition cost amount because at least some of these amounts had to be recorded before all the rules regarding accounting for transition costs had been clarified and that it is likely that other distributors booked the amounts into the various categories subject to different interpretations of the guidelines.

Board Findings: Hydro One

7.0.17 We do not accept SEC's recommendation regarding alleged integration costs. Once Hydro One acquired the LDCs, the responsibility fell on Hydro One to ensure that the Acquired LDCs were market-ready. Hydro One's information and billing system had to be capable of accommodating the market readiness of all the distributors it acquired, and the claimed costs are legitimate costs to be included in Hydro One's transition cost deferral account. To penalize Hydro One for incurring higher market-ready costs because its information billing system had to accommodate market-readiness for the Acquired LDCs without considering the avoided costs of each of the Acquired LDCs would not be reasonable. There was no suggestion that there were no avoided costs or that Hydro One's incremental transition costs for accommodating market-readiness for the Acquired LDCs were higher than the avoided costs. In fact, we accept Hydro One's submission that there were overall savings, which is what consolidation purports to achieve.

7.0.18 However, Hydro One included certain market ready costs on the basis that they met the materiality test overall, when in fact they do not meet the test established in the Guidelines. We reiterate that the Guidelines are extremely important in ensuring efficiency, effectiveness, transparency and fairness, especially in a sector that involves so many regulated entities. Deviations from the Guidelines may be warranted and permitted by the Board if there is demonstrated uniqueness or special circumstances. The Board has shown flexibility in accepting some deviations in this case, but these are for presentation (e.g. Billed vs. Accrual) or clarification (e.g. interest rate, application of interest), not to reward deviations that are favourable to the Applicants, without adequate justification. We do not find that Hydro One has demonstrated adequate justification in this case. Nor do we accept the suggestion that these amounts may have been booked prior to all the provisions regarding accounting for transition costs being clarified. The existing guidelines under which distributors had to file their claims are clear on this issue. Hydro One is therefore directed to reduce its total claim in its re-filing by the amounts of $1.6 million for Wholesale

Market Requirements, by $0.354 million for IMO Requirements, and $0.258 million for Regulatory Costs, with associated interest.

7.0.19 We commend Hydro One for utilizing appropriate competitive bidding and subjecting itself to an external post project audit, which enhanced acceptance of its transition costs by the intervenors and the Board. Hydro One's familiarity with Board proceedings and its overall disposition provided valuable assistance to the Board in better understanding the numerous and complex issues involved.

Toronto Hydro

7.0.20 Toronto Hydro claimed a total Transition Cost amount of $35,076,627.

7.0.21 After completing an internal review in 2002, Toronto Hydro reduced the gross amount of transition costs from $44,831,000 to a claimed qualifying Transition Cost balance of $32,843,284 (excluding interest). The bulk of this reduction was the exclusion of $6.5 million in capitalized and operating labour costs which were deemed to be not incremental. In addition, costs associated with IMO requirements were excluded because they did not meet the Applicant's materiality threshold of $1.5 million.

7.0.22 Toronto Hydro reported that the total Transition Cost amount of $35,076,627 is made up of $26,164,458 in capital costs and $6,678,826 in non-capital operating expenses. The remainder of the total is comprised of $2,233,343 in carrying charges based on a Board allowed return of 6.8% per annum starting January 1, 2003.

7.0.23 The Applicant verified that all costs were incurred between January 1, 2000 and December 31, 2002. Toronto Hydro noted that it was one of the few distributors which made early preparations for market opening, and as a result, incurred costs that other distributors avoided. Costs associated with the early development of the Fixed Reference Price/Purchased Power Variance Account (FRP/PPVA) system for serving Standard Supply customers (which other distributors did not implement) contributed to increasing the transition costs. With respect to its billing system, Toronto

Hydro chose modifications to its existing CIS as the most cost effective way to build the retail system functionality required by market opening.

7.0.24 Toronto Hydro reported that no costs associated with services provided by its affiliates were included in Account 1570 as there were no shared services between Toronto Hydro and any affiliates relating to transition costs. Although Toronto Hydro used the same call centre provider as its affiliate, Toronto Hydro Energy Services Inc., the services were under two different agreements with different conditions and therefore, in Toronto Hydro's view, do not raise any significant issues with regard to the Affiliate Relationship Code (ARC).

Submissions by Parties

7.0.25 CCC argued that Toronto Hydro failed to demonstrate prudence in incurring transition costs by not attempting to reduce costs via the sharing of information or resources with other distributors, not comparing its performance to either internal or external standards, and failing to prove that a cross-subsidy of its affiliates did not exist. CCC submitted that the Board should reduce the transition cost claim of Toronto Hydro by 10% citing the difficulty of quantifying the impact of the retail affiliate on these claims and the absence of management discipline.

7.0.26 VECC, on the other hand, accepted the amounts claimed by Toronto Hydro as being prudent and meeting the causation criteria, noting in particular the internal audit undertaken.

7.0.27 Toronto Hydro rejected CCC's view that there may have been quantifiable impacts on transition costs from its retail affiliate stating that there are no relationships with affiliates which create an apparent conflict of interest which calls into question the prudence of its transition costs, nor has CCC or any other intervenor presented evidence of such a relationship. Toronto Hydro disagreed with CCC's claim that the Applicant did not exercise an appropriate level of management discipline or prudence. The Applicant stated that it was the only utility to do an advance estimate of its transition costs, submitting that this and the fact that all claimed costs meet the provisions of the DRH and APH are examples of prudent conduct.

Board Findings: Toronto Hydro

7.0.28 We are not convinced by the argument by CCC that a reduction would be appropriate for Toronto Hydro. While we agree with CCC that the presumption of prudence may not apply where there is an inherent conflict of interest, there was no evidence of inappropriate behaviour in this case. Possible cross-subsidization among affiliates was tested extensively in the case of Toronto Hydro, to little end.

7.0.29 Nor are we persuaded that the mere existence of an affiliate, whether energy retailer or business activities that distributors were no longer permitted to carry on as a result of the enactment of Section 71 of the *Ontario Energy Board Act, 1998*, should cause the Board to add this as an explicit criterion in the assessment of prudence, as suggested by CCC. The Board's criteria enunciated in its guidelines are adequate in our view to capture any unreasonable claims where affiliates are involved.

7.0.30 With respect to the suggestion that a reduction due to lack of prudence or management discipline by Toronto Hydro is appropriate, we accept that Toronto Hydro could have kept better records to document the removal of certain costs in arriving at the final transition cost claim. Most of the relevant information came to light during the hearing, in cross examination or through responses to undertakings. A good deal of such information could have been included in the prefiled evidence. However, we do not find that this is good reason to actually disallow prudently incurred costs in this case. We are satisfied with the reasonableness of the amounts claimed.

7.0.31 In reviewing transition costs, we have noted Toronto Hydro's leadership role in achieving market opening for the distribution sector and we commend the utility for that. The many inaccuracies in Toronto Hydro's evidence identified during the proceeding could have been avoided. At the same time we commend the Applicant for the close adherence to the Board's guidelines regarding transition costs and other regulatory assets.

Enersource

7.0.32 Enersource claimed $12,394,554, including approximately $1.3 million in carrying charges.

7.0.33 Enersource confirmed that $40,387 related to Bill 210 requirements was inadvertently left in Account 1570. If this amount were transferred to Account 1525, the balance in Category 8 (Regulatory Requirements) would fall below the Applicant's materiality threshold of $444,995. Enersource still sought to recover the revised Category 8 balance of $411,684 on the basis that the difference between the balance and the threshold is not significant and that the revised balance still represents over 3% of its total transition cost claim.

Submissions by Parties

7.0.34 CCC argued that Enersource failed to demonstrate prudence in incurring transition costs by not attempting to reduce costs via the sharing of information or resources with other distributors, not comparing its performance to either internal or external standards, and failing to prove that a cross-subsidy of its affiliates did not exist. In particular, CCC noted that no internal or external studies or audits of transition costs were commissioned, and no steps were taken to determine why Enersource's transition costs per customer were higher than other distributors. CCC submitted that this reflected both a lack of basic management discipline and a lack of prudence. Therefore, CCC recommended that Enersource's claim for transition costs be reduced by 10%.

7.0.35 Energy Probe noted that Enersource's transition costs per customer are the highest among the Applicants, at $69.99. Energy Probe submitted that the Board should disallow $2.64 million in transition costs based on limiting Enersource's costs to $54.31 per customer. Energy Probe derived this level by calculating the cost per customer, excluding customer education, for London Hydro (which had the next highest costs per customer) and adding 20% and Enersource's own education costs of $6.37 per customer. This level of disallowance would also recognize the ineligibility of $411,684 in category 8 - Regulatory Requirements as this does not meet the materiality threshold.

7.0.36 Enersource argued that internal audits and comparisons of its costs to other utilities were not a requirement of the DRH, APH480 or the Filing Guidelines and that it "acted prudently, implementing a robust system that was capable of prorating customer bills at market opening, and was able to self-certify in accordance with the OEB's deadlines."

7.0.37 SEC submitted that the Board should disallow $1.6 million in transition costs for Enersource, arguing that this amount involved costs linked to pre-existing staff and are therefore not incremental. VECC also recommended that the amounts spent on internal staff labour by Enersource for transition activities should be disallowed because the justification for these costs as incremental were overly simplistic and unsubstantiated. VECC noted that Enersource did not undertake an internal audit and that Toronto Hydro reduced its internal labour costs considerably as a result of its audits.

7.0.38 Enersource responded that the $1.6 million in labour costs were incremental as they satisfied the test of causation by being clearly outside of the base upon which rates were derived. Further, Enersource submitted that it acted responsibly by claiming the costs of its own staff assigned to the market ready project as opposed to claiming the overtime paid to other employees assigned to backfill that first group, as these costs would have been higher.

7.0.39 SEC and Energy Probe both argued that the amounts in category 8 of this account as reported by Enersource are below the materiality threshold, once costs associated with Bill 210 are removed, and should therefore be disallowed. Enersource submitted that the Board should exercise its discretion as to the application of the materiality guideline. Although Enersource removed $3,043 in response to a Board Staff interrogatory, the rigid application of the guideline could lead to the denial of significant amounts for legitimate transition costs.

Board Findings: Enersource

7.0.40 Enersource could have reacted differently when it was brought to its attention that its per customer transition costs were considerably higher than the other Applicants. It would be reasonable to expect that this fact would have led to some initiatives to understand the causes for the higher comparative costs. There were no external or internal reviews commissioned or studies undertaken. Enersource appeared to believe that it could justify its costs on the basis that it was market ready and has a good information and billing system in place. However, this is not unique to Enersource, and therefore is not sufficient grounds to recover any costs the Applicant puts forth. The evidence revealed a general disregard for the high level of costs per customer. It is our conclusion from the evidence and the testimony that Enersource did not demonstrate sufficient prudence to recover the transition cost claimed. We therefore reduce Enersource's claimed transitions costs by 10%. The 10% reduction shall apply to the remaining amount after other Board adjustments. The Board expects future conduct by the distributor to be more prudent in such matters.

7.0.41 SEC and VECC argued that Enersource should not be entitled to recover the sum of $1.6 million in transition costs as these costs were not incremental. We note that claimed costs are costs associated with existing employees that were seconded to the market-readiness project and that their responsibilities in their regular positions were met by back-filled personnel or by over-time pay for existing personnel. Whether all or some of the back-filled employees continued employment with the utility in other business areas following the completion of the market-readiness project is not an issue for purposes of our assessment in this case. The issue is whether the amounts claimed are incremental. Under the Rate Handbook, the test provides that the costs must be clearly outside of the base upon which rates were derived. We are satisfied that this is the case here, despite the confusion over the incrementality of costs regarding seconded employees. An alternative presentation could have been to claim as incremental costs the costs associated with the back-filled personnel and overtime expenses, not the costs of seconded personnel. In any event, we accept Enersource's $1.6 million claim in this matter.

7.0.42 Enersource confirmed in the course of the hearing that an amount of $40,387 related to Bill 210 requirements was inadvertently left in Account 1570. If this amount were to be transferred to Account 1525, the balance in Category 8 (Regulatory Requirements) would fall below the Applicant's materiality threshold of $444,995. For the reasons we set out earlier in discussing this issue in the case of Hydro One, we do not accept Enersource's claim. Enersource shall reduce its claim by $411,684 and associated interest.

London Hydro

7.0.43 London Hydro claimed $9,594,536 in transition costs, including carrying charges of $1,201,896 and interim recoveries to December 31, 2003 of $613,826.

7.0.44 London Hydro indicated that the costs relate principally to the acquisition of a new CIS system because its legacy system was unsuitable for adaptation to the new regulatory and competitive market. The legacy system suffered from a number of limitations and could not be adapted to unbundle services, implement the new bill format, provide summary and consolidated or aggregate billing, track customer activity, or modify or introduce unbundled rates, as well as rebate programs.

7.0.45 London Hydro included additional transition costs in 2003 of $426,275 associated with changes to Electronic Business Transaction standards.

Submissions by Parties

7.0.46 LPMA opposed the recovery of the base CIS costs, arguing that London Hydro failed to prove that these costs are directly and demonstrably linked to the restructuring requirements. The LPMA suggested that of the $1,714,750 attributed to the cost of the base CIS, only $1,088,370 can be attributed to deregulation compliance. VECC and Energy Probe also argued that a portion of London Hydro's base CIS costs should not be included for recovery.

7.0.47 CCC noted that London Hydro did not undertake any internal or external studies to compare its costs to others. On the other hand, its cost per customer were low relative to the other Applicants, there were no affiliate issues and London Hydro worked cooperatively to share CIS costs with Kingston. However, CCC submitted that it is unreasonable for London Hydro to recover its entire CIS expenditures because the system would have had to be replaced whether or not there was transition to a new market. CCC submitted that the Board should reduce London Hydro's transition cost claim for the CIS system by 50%.

7.0.48 London Hydro responded that there was no evidence that it would have replaced its legacy CIS if transition to an open market had not occurred, noting that because it had incurred the cost of making the CIS Year 2000 compliant it would not have replaced the system. In addition, London Hydro argued that its increasing maintenance costs were not a sign that the system needed replacing because they were not attributable solely to its CIS but to all its IT systems.

7.0.49 VECC argued that the Enerconnect related costs of $293,159 included in London Hydro's transition costs should not be eligible as these costs were incurred after market opening and represent costs associated with ongoing market activities and are not one-time set up costs. These costs are only non-recurring because London Hydro had developed its own settlement system. London Hydro argued that these costs should be recovered because they meet the four criteria and the development of its own settlement system, at a reduced cost, benefited the rate payers.

7.0.50 Energy Probe submitted that the Board should disallow some of London Hydro's customer education costs, which are higher, on a per customer basis, than the total claims of the other three Applicants combined. Energy Probe recommended that customer education costs be limited to $10 per customer, a figure that is still 45% higher than the next highest claimant among the four Applicants (Toronto Hydro). Therefore, Energy Probe submitted, the Board should disallow a total of $2.48 million from London Hydro's transition cost claim for base CIS and customer education costs. Energy Probe pointed out that the resulting amount to be recovered is still more than 2.5 times greater than the average claims of the distributors with customer numbers between 96,000 and 264,000.

7.0.51 London Hydro objected to Energy Probe's recommended disallowance of $2.48 million. In London Hydro's view, the analysis, based solely upon a cost per customer comparison with other LDCs having a customer number range of 72% to 200% that of London Hydro, completely ignores data normalization factors that are fundamental to the study's validity (due to factors such as different starting points, different outputs, lack of management control and minimum threshold CIS investment costs.) London Hydro submitted that since regression analysis is fundamental to the benchmarking model upon which Energy Probe's analysis is based, benchmarking as proposed by Energy Probe along with its evidence should not be considered by the Board in evaluating London Hydro's transition costs. In addition, London Hydro noted that Energy Probe has not recommended any disallowance for either Toronto Hydro or Enersource, even though London Hydro has the lowest transition costs of all the Applicants and the lowest total CIS acquisition cost per customer. This, London Hydro submitted, is the result of Energy Probe relying exclusively on its simplistic cost per customer metric.

7.0.52 With respect to Customer Education Costs specifically, London Hydro argued that Energy Probe's reliance on customer numbers as the primary cost driver failed to recognize the importance of number of calls and call length as determinants of the total expense. A disallowance based on a cost per customer would fail to take these factors into account.

Board Findings: London Hydro

7.0.53 Numerous intervenors recommended that the Board reduce London Hydro's claim for its base CIS system. We agree, but not necessarily for all of the arguments advanced. Given the anomalous history of ratemaking for electricity distributors in Ontario, a discussion of what costs may or may not be covered in current rates is not productive.

7.0.54 The Board believes that the principal reason for some reduction to London Hydro's transition cost claim is the clear evidence that development work on the new CIS system began early on. The evidence was that the base CIS system was scheduled to go live in November 1998, well before there was any notion of the new functionality that would be required for market opening. In addition, the Board finds merit in the arguments by many intervenors that the new CIS system served the purpose of more than just adaptation to the new electricity market. The features of the system as described by London Hydro included the ability for third party billing, and the scalability to serve a million customers, as well as the reduction of on-going CIS operating costs. These features are above and beyond the task of facilitating the needs of market opening. Therefore, we find London Hydro's argument that the full cost of its new base CIS system is a legitimate market-ready regulatory asset claim is not convincing. In our view, an adjustment is warranted. We deem a reduction of 25% of the Base CIS claimed costs, or $428,688 plus interest.

7.0.55 London Hydro also made a transition cost claim in two areas that were not made by the other Applicants: Costs associated with changes to the Electronic Business Transaction (EBT) system and costs associated with establishing a settlement system (Enerconnect).

7.0.56 The changes to the EBT system were made in 2003, after the deadline for incurring transition costs. In addition, the costs were incurred to make required changes to the EBT system as a new version of the system was introduced. We do not view these claimed costs to be part of the market-ready process; we view them as ongoing costs of doing business. We will not accept these costs as qualifying transition costs. Nor are we prepared to accept them on an exception basis, as permitted in the Guidelines and submitted by the Applicant. Our view of the role of Board guidelines and grounds for departure are set out above in our discussion of Hydro One's transition costs. We do not find that London Hydro has demonstrated sufficiently that a departure from the guidelines is warranted. London Hydro's transition cost total is reduced by $426,275 plus interest on this account.

7.0.57 With respect to the claimed costs associated with the Enerconnect settlement system costs, we agree with VECC that these costs represent ongoing operating costs and are only non-recurring because London Hydro chose to develop its own settlement system. For similar reasons as above, we are not prepared to depart from the guidelines and accept such costs. London Hydro's transition cost total is therefore further reduced by $293,159, plus interest.

7.0.58 Energy Probe recommended that London Hydro's customer education costs of $2,089,682 be reduced to $1,326,700 bringing these to a level no more than $10 per customer from the claimed $15.75 per customer. We are concerned with the level of London Hydro's claim because, on a per customer basis, it is more than the sum of the claims of all the other three Applicants. London Hydro's evidence was tested on its own merits, and it had the opportunity to explain and argue for such a high level, as it did. However, these arguments did not convince the Board that there should not be a reduction. At $10 per customer London's cost is still 45% higher than the next highest claimant (Toronto Hydro at $6.89 per customer) but we are prepared to accept this level. We direct London Hydro to adjust its claim to $10 per customer, for a total downward adjustment of $763,000 plus associated interest.

7.0.59 London Hydro is commended for its initiatives to work cooperatively with another utility, Kingston Hydro, in sharing CIS related costs. It is unfortunate that it was not able to work with the other three Applicants, who co-sponsored one external witness, to avoid duplicating the evidence on benchmarking. We found London Hydro's evidence to be well organized and comparatively accurate. We also wish to commend London Hydro's witnesses for their level of co-operation.

Allocation and Recovery of Transition Costs

Applicants' Proposals

7.0.60 Hydro One proposed to allocate this account to its Core customers, Acquired LDCs, Embedded LDCs and Direct customers on the basis of number of customers. Within each group, Hydro One proposed to use distribution revenues to allocate to the Core customers and Acquired LDCs and LV revenues to allocate to the Embedded LDCs and Direct customers.

7.0.61 Toronto Hydro and London Hydro recommended that transition costs be allocated to customer classes based on number of customers. Toronto Hydro noted that if the Board were to approve distribution revenues as the allocator, the bill impacts would not be significantly different.

7.0.62 Enersource recommended that the allocation be based on distribution revenue as a reasonable compromise between number of customers and energy consumption.

Submissions by Intervenors

7.0.63 VECC and CCC argued that benefits should be the consideration and that therefore energy is the appropriate allocator. Energy Probe and Hamilton Hydro also supported the use of benefits as the key driver in determining the allocation. In their view, however, distribution revenue is the more appropriate allocator. Energy Probe added that Hydro One should use distribution revenue to allocate to its customer segments as well as to its customer classes.

7.0.64 SEC and AMPCO recommended that number of customers be the allocator. SEC rejected the notion that larger volume customers (outside the lower volume rate classes) benefit more from competition than smaller ones, because market opening had little impact on them. SEC noted that its clients already had sufficient volumes to participate in the wholesale market and that some large volume industrial customers were already buying directly. AMPCO argued that the open market was intended to benefit both wholesale and retail customers; therefore the argument for using distribution revenue as an allocator is not valid. In addition, AMPCO argued that the Board should reject Hydro One's proposal to allocate to its Core customers by distribution revenue since this does not reflect cost causality but is simply an extension of the interim recovery method.

7.0.65 LPMA submitted that the Board should reject London Hydro's allocation proposal and direct the Applicant to allocate transition costs based on the specific purpose of each initiative. London Hydro rejected proposals for energy as the allocator. It also rejected the split allocation proposal of LPMA on the basis that it represents a frivolous cost causality relationship between energy consumption and the costs of acquiring and developing the billing systems required for deregulation.

7.0.66 Hydro One responded that allocation principles should be applied consistently to all variance accounts and not chosen in order to provide the desired results for a particular group of customers. Consequently, Hydro One rejected the allocation of transition costs based on the benefit principle (energy consumption) instead of cost causality.

Board Findings

7.0.67 Of the alternatives proposed for the allocation of transition costs, we find that number of customers is the allocator most closely aligned with cost causality.

7.0.68 VECC maintained that customer numbers is not the key cost driver for transition costs, and therefore the case has not been made for allocation on the basis of customer numbers. The Board disagrees. The evidence confirms that most transition costs are related to customer accounting, customer billing, and customer information. While some software expenses are related to the higher volume customers, the bulk of the costs relate to the smaller volume customer. The Board agrees that customer numbers may not explain all of the variation in transition costs, and that the relationship between transition costs and customer numbers may not be proportional or linear. However, Energy Probe's evidence indicates that there is a high correlation between the customer numbers and transition costs and, in our view, a strict linear or directly proportional relationship is not required to demonstrate cost causality. Customer numbers is clearly a cost driver for these expenses, and there was little evidence regarding any other cost driver.

7.0.69 Enersource agreed that if cost causality were the only factor, then allocation should be on customer numbers. However, it argued that customers did not "cause" the costs; government did, and therefore the allocation should be on the basis of benefits. We accept that it was government policy which gave rise to market restructuring; however this does not mean that government, and not customers, "caused" the costs from an allocation perspective. The fact that the government initiated the changes is not sufficient reason to depart from cost allocation on the basis of cost causality.

7.0.70 LPMA advocated that some categories of transition costs should be allocated on the basis of customer numbers and some on the basis of consumption. While greater precision might be gained by determining the allocation on a category by category basis, we find that there is insufficient evidence to warrant this complexity for this one-time allocation.

7.0.71 Parties made reference to a variety of prior decisions of the Board concerning this matter. In Phase 1 of this proceeding, interim recoveries of regulatory assets other than RSVAs were allocated on the basis of distribution revenue. The Board does not see this decision as being determinative or as providing any particular guidance on this matter, given it was an interim decision dealing primarily with RSVA recoveries. In RP-2000-0023, the Board addressed the allocation of Hydro One's interim recovery of transition costs specifically, and accepted Hydro One's proposal that allocation should be on customer numbers.

7.0.72 A number of parties also referred to the Board's Decision in RP-2000-0073, in which the Board determined that a portion of Union Gas Limited's unbundling costs (related to the design phase) should be allocated on a volumetric basis because the costs were related to the development of market competition and the benefits would be greater for larger volume customers. The Board determined that the other portion of the unbundling costs would be allocated to small volume customers only on the basis of customer numbers. The Board finds that the transition costs in the current proceeding are analogous to those latter unbundling costs in the Union Gas Limited proceeding. The Board is therefore content that the current decision is consistent with Board practice in this area.

8. Benchmarking

8.0.1 Energy Probe led evidence, prepared by Tom Adams, on benchmarking and its application to the Board's review of distributor transition costs. Adams was not qualified as an expert in benchmarking, but rather as an expert on the design and operation of the Ontario electricity market. The thrust of Adams' evidence was that the Board should use total transition cost per customer as a screening tool in assessing the prudence of distributors' transition cost claims.

8.0.2 His analysis, which was based on a methodology originally published by Adonis Yatchew, used data on transition cost per customer for each distributor on the basis that there is a strong correlation between transition costs and number of customers. He proposed that those distributors whose per customer costs were in the top 25^{th} percentile should be the focus of further investigation by the Board.

8.0.3 In his view, all distributors faced the same requirements and the same timelines and therefore these costs were suited to benchmarking. He acknowledged that distributors had different customer bases and varying starting points in preparing for market opening, but he maintained that the differences were not relevant from the customers' perspective and that, therefore, the global cost comparison was still valid. He acknowledged potential inaccuracies in the data, and emphasized that the distributors should be required to provide data on a more consistent basis, perhaps using an audit approach, to develop a screening tool for the remaining distributors.

8.0.4 Mark Lowry, of Pacific Economics Group, provided reply evidence on behalf of Hydro One, Toronto Hydro and Enersource. Lowry presented expert evidence on the principles and methodologies of statistical benchmarking. He acknowledged that transition costs could be benchmarked, but only with extensive effort in terms of adjusting the data. He noted that there would be no incentive benefit from such an effort, one of the key components of formal benchmarking regulation, and that while benchmarking inherently raises operating risk by externalizing the regulatory process, needlessly inaccurate benchmarking would be a significant concern to the investment community. He criticized Adams' evidence on a number of grounds: the simplistic nature of the unit cost measure, lack of output quality measures, the failure to control for the varying starting points and characteristics of the distributors in terms of general level of efficiency and ongoing costs.

8.0.5 Lowry agreed that the Board should begin considering the use of benchmarking and he commended Adams for limiting the application of his analysis to a screening tool rather than a mechanistic rate setting tool. He acknowledged that Adams' proposal of a screening tool was a practical approach to a daunting task, but maintained that Adams' approach was needlessly inaccurate. He suggested improvements could be made, such as sorting the data by size of distributor and using a confidence interval, rather than the 25th percentile, but emphasized that any screening should be done cautiously with targeted distributors given the opportunity of a fair hearing, thereby mitigating any impact on risk and concerns of the investment community.

8.0.6 Seabron Adamson, of Tabor Caramanis & Associates, provided reply evidence on behalf of London Hydro. Like Lowry, he presented evidence on the methodology of formal benchmarking. He emphasized the conditions for good benchmarking, including comparability of inputs and outputs and the need to correct for differences. He concluded that benchmarking was not a suitable tool for assessing transition costs given their idiosyncratic nature, further noting that Adams' analysis did not correct the data to ensure comparability. While Adamson believed Adams deserved credit for bringing the issue of benchmarking to the Board, he would not ascribe any weight to the results of Adams' analysis.

8.0.7 He acknowledged the value of a screening tool to prioritize the Board's resources in assessing the remaining distributors. However, Adamson concluded that to get the needed information for a screening tool, the process would look much like a standard utility specific regulatory process.

Submissions by Parties

8.0.8 Hydro One submitted that although benchmarking can be a useful tool in the regulation of distribution utilities in the right circumstances - such as benchmarking for power distribution costs - it is a very difficult and time-consuming exercise if it is to be conducted in a fair and accurate manner. In Hydro One's view, the transition costs being examined in this proceeding do not provide an appropriate basis for applying the rigorous principles of benchmarking.

8.0.9 Toronto Hydro and Enersource made similar submissions, arguing that there was no foundation to support Energy Probe's proposal that benchmarking be used in respect of distributor transition costs, as these costs are generally not comparable on a cost per customer basis due to differences among distributors related to:

- the starting point for each distributor
- billing and other open access services provided
- flexibility in the market ready requirements, whereby LDCs were given options for fulfilment of the requirements, such as the choice between charging the OEB's fixed reference price for electricity and passing through the market price
- varied success in meeting the market opening requirements.

8.0.10 Toronto Hydro and Enersource submitted that in applying benchmarking at this stage, the Board would increase the operating risk of distributors with a negative impact on their ability to obtain funds in the marketplace. Benchmarking should only be used as a screening tool to identify distributors for greater scrutiny, which was done to identify the distributors in this proceeding.

8.0.11 London Hydro supported the use of benchmarking where it can be fairly applied as an incentive for cost efficiency, but argued that benchmarking as proposed by Energy Probe is not appropriate for the review of transition costs. London Hydro advanced a number of reasons for this position:

- The regulatory directives provided by the Board with respect to the incurring and approval of the transition costs provide that such costs are to be reviewed on a utility specific basis with the requirement that the utility be able to demonstrate only that the costs incurred represent the most cost effective option relative to other options available to the utility and not necessarily the least initial cost for ratepayers.
- Comparisons cannot be applied as an efficiency incentive.
- Significant differences among distributors with respect to starting positions, outputs, retailer market penetration and transactions, and meter reading and billing cycles likely can not be resolved through econometric analysis or peer grouping sufficient to permit fair and reliable comparison even with substantial effort and expense.
- There is an acknowledged fixed level of cost for the technology required to achieve deregulation functionality regardless of customer numbers.
- Any utility comparison of market readiness costs must consider total life cycle costs (capital and operation).

8.0.12 Among the distributor intervenors, there was general support for the positions taken by the Applicants. In their view, while benchmarking might be appropriate at some time in the future and for some aspects of the distribution business, it is not appropriate for the assessment of transition costs. CME also agreed that benchmarking can be a useful tool but only if there is uniformity and consistency in the process and when all LDCs are operating from the same set of clearly defined rules.

8.0.13 Most of the parties representing customer interests were supportive of benchmarking as a screening tool for the Board to use in dealing with the Transition Cost element of the regulatory asset review. Energy Probe, SEC and CCC all supported using benchmarking as a tool for making comparisons among distributor applications in order to improve the efficiency of the process by giving early warning of areas where there may be anomalies or questions that need to be addressed.

8.0.14 Energy Probe recommended that the screening be done in two stages: first, by benchmarking total transition costs per customer and second, by benchmarking each of the ten activity category costs per customer. Energy Probe also suggested that each of the distributors making claims over $100/customer should be called in for a full public review. Of the utilities with lower claims, Energy Probe recommended that further detailed review, initially by means of a written hearing, be applied to the Transition Cost claims of the following distributors:

- all distributors above the 25th percentile criteria except Clinton Power Corp. and Midland Power Utility Corp., both of which met the market opening date and have relatively small customer numbers
- Haldimand County and St. Catharines which have claims of $51/customer and $47/customer respectively, which failed to meet market opening
- Thunder Bay, which is making a claim of zero and has 49,000 customers.

Board Findings

8.0.15 Benchmarking one utility's performance with another, taking into consideration differences that may exist, can be an effective regulatory tool, especially in Ontario's electricity sector with close to one hundred distributors. Benchmarking need not be absolute; its gradation or granularity can differ. Its use very much depends on the degree of harmonization or normalization of data from one utility to another to account for these differences. We see harmonization and normalization of data as key challenges in deriving the many potential benefits from benchmarking.

8.0.16 Comparison of one utility with another can be a useful regulatory tool to assess best practices, which may partly explain differences in performance, including costs. A crude benchmarking approach can be beneficial as a screening tool. As many parties acknowledged, a crude form of benchmarking was already used to subject the four (originally five) distributors to closer scrutiny. During the proceeding, we became convinced that benchmarking in its strictest sense was not generally an appropriate tool to assess prudence of one Applicant's transition costs relative to another's. There were different starting points from both technological and operating perspectives. The fact that transition costs are higher for one Applicant compared to another, does not necessarily suggest that transition costs for the Applicant were not prudently incurred. Given the peculiar nature of transition costs, we assessed prudence generally on the merits of each Applicant's case, not on benchmarking. One exception was for costs incurred for customer education. We deal with this item elsewhere in our decision. Our assessment of prudence for each of the four Applicants therefore relied on testing the evidence based on the tests enunciated in the Board's guidelines.

8.0.17 We reiterate that benchmarking has value as a screening tool. Various adaptations are possible in the effort to streamline the regulatory process for the close to 100 electricity distributors. In Chapter 10, we use a screening tool for purposes of establishing the process of assessing transition costs for the remaining distributors.

9. Implementation of the Decision by the Applicants

Method of Recovery

9.0.1 Hydro One, Toronto Hydro and Enersource proposed the use of a single rate rider per customer class, applied only to the distribution rate (either to the fixed or variable charges or to both). London Hydro did not propose a specific recovery method, but in its argument suggested that the Board may wish to consider adjusting only the variable component in the interest of simplicity. However, London Hydro stated that if the Board wished to match cost causality, the appropriate recovery mechanism would be to adjust both the fixed and variable components to recover transition costs and to adjust only the variable component to recover RSVAs and other non-Account 1570 amounts.

9.0.2 Intervenors made a number of specific recommendations for the recovery of individual accounts, sometimes advocated that recovery be on the volumetric charge only, sometimes on the fixed charge, and sometimes on both. A number of intervenors proposed recovery and implementation methods involving multiple rate riders applied to multiple rates.

9.0.3 Toronto Hydro noted that establishing specific rate riders to clear balances in each regulatory asset account might have the appeal of precision, however, the multitude of additional rate riders that would be required and the complexity of maintaining variance accounts for each of the regulatory assets (and subsequent review and true up), suggests that an aggregated approach would be appropriate. Hydro One stated that there is no real benefit to customers, as the multiple rate riders do not change the amount of the final bill and do not accord with the recent government initiative to simplify the bill format.

9.0.4 The first issue for the Board is to decide whether the apportioned costs should be recovered from only the fixed charge, only the variable charge, or both. We find that recovery should be through the volumetric charge. There are a number of reasons underpinning this finding. First, it is consistent with the principle that fixed charges should be generally associated with the longer term assets of the utility; regulatory assets are not seen as fitting this profile. Second, as the Board will have to eventually address the significant variation in fixed charges among electricity distributors, recovery of regulatory asset costs from the fixed charge component would add to the complexity of assessing and developing a more consistent or standardized method. Third, recovery from the volumetric component is more conducive to encouraging and rewarding ratepayers for their conservation efforts.

9.0.5 The second issue for the Board is to decide whether to implement the rate changes by way of riders. Having considered the parties' suggestions, and in view of other rate changes contemplated over the next several years, the Board is of the view that the most practical and administratively efficient method of recovery is through a single rate rider per rate class on the volumetric distribution charge.

Implementation: General

9.0.6 In addition to changes in the Applicants' rates stemming from this decision and from decisions on regulatory assets of the other distributors, we are aware of pending rate changes stemming from the implementation of the Regulated Price Plan and the implementation of the third tranche of MARR. From an administrative, cost effectiveness and customer acceptance point of view, the Board is of the view that rates changes should be synchronized with a single implementation date. The Board currently plans to authorize new rates to take effect on May 1, 2005.

9.0.7 As noted above, the Board has determined that recovery of the balances through the use of rate riders would be a reasonable and practical approach. When finalized, these rate riders will be added to the volumetric component of a distributor's rates for three years starting May 1, 2005.

9.0.8 Several of Hydro One's regulatory asset accounts include allocations of costs to distributors embedded within Hydro One's distribution system, including the other three Applicants. Therefore, an orderly way of proceeding is to finalize Hydro One's application first so that the Board-authorized changes and their associated impacts on the Embedded distributors can be reflected in the revised filings by these distributors. When the amounts for Hydro One are finalized by the Board, these shall be added to the appropriate regulatory asset accounts of each of the Embedded distributors for disposition. In the specific case of the Low Voltage related amounts, the Board has determined that the appropriate account for the distributors to capture these costs is the Retail Transmission Account (1586, RSVA CN).

Implementation: Hydro One Balances and Allocation to Embedded Distributors

9.0.9 Hydro One's initial refiling shall reflect the Board's findings in this Decision and shall include the following:

- revised balances for each regulatory asset account (interest shown separately) as of December 31, 2003
- write off of amounts not approved
- projected interest for each account to April 30, 2005 to arrive at a gross balance for disposition
- subtraction of the actual and estimated amounts recovered from interim rate adjustments for the period April 1, 2004 to April 30, 2005, by rate class

- subtraction, if applicable, of the actual interim transition cost amounts recovered for the period from March 1, 2002 to March 31, 2004, by rate class
- a schedule showing the allocation to each of the embedded distributors by deferral account.

9.0.10 Hydro One shall file the above with the Board within 10 days of the date of this decision, and the Board will notify the parties in the proceeding of this filing and its availability. The parties to the proceeding shall file their submissions, if any, within 10 days of receipt of Hydro One's filing. Hydro One shall file its reply submission, if any, within 10 days of that date. There will not be costs awarded for this process.

9.0.11 The Board will communicate its order on Hydro One's filing to the parties in this proceeding and to all other distributors.

Implementation: All Four Applicants

9.0.12 For a May 1, 2005 implementation, upon receipt of the Board's order for Hydro One, all four Applicants shall reflect the Board's findings in this decision and shall include the following:

- revised balances for each regulatory asset account (interest shown separately) as of December 31, 2003
- write off of amounts not approved
- projected interest for each account to April 30, 2005 to arrive at a gross balance for disposition
- impacts arising from the Board's order for Hydro One
- allocation of each revised account balance to rate classes
- subtraction of the actual and estimated amounts recovered from interim rate adjustments for the period April 1, 2004 to April 30, 2005, by rate class

- subtraction, if applicable, of the actual interim transition cost amounts recovered for the period from March 1, 2002 to March 31, 2004, by rate class
- net total amounts to be recovered over the next 3 years, by rate class
- net total amount per rate class, divided by 3 and divided by 2003 energy use in each rate class, determining the rate rider for each rate class.

9.0.13 Toronto Hydro, London Hydro and Enersource shall file with the Board within 10 days of receiving the Board's order on Hydro One. Hydro One shall file with the Board within 10 days of receiving the Board's Order on its Embedded Distributor allocations, a similar rate submission which will establish the rate rider for each rate class for their Legacy customers and for customers of the Acquired Distributors. The Board will notify the parties in the proceeding of this filing and its availability. Intervenors shall file their submissions, if any, within 10 days of receipt of such filing. The Applicants shall file their reply submissions, if any, within 10 days of that date. There will not be costs awarded for this process.

9.0.14 The Board will communicate its order on all Applicants to the other parties in this proceeding and to all other distributors.

9.0.15 As of April 30, 2005, all four Applicants shall credit their appropriate regulatory asset accounts with the December 31, 2003 approved amounts for each account as per this decision, and shall include interest on the approved amounts from January 1, 2004 to April 30, 2005.

9.0.16 Consequently, there will be a zero balance in Accounts 1570 (Market-Ready Transition Costs) and 1571 (Pre-Market Opening Energy). These accounts shall be discontinued.

9.0.17 The remaining ongoing accounts will contain monthly activities post December 31, 2003, and shall include interest after this date on these activities.

9.0.18 Also as of April 30, 2005, all four Applicants shall debit the Regulatory Asset Recovery Account (1590, Recovery of Regulatory Asset Balance) by the approved total recovery amounts. Starting May 1, 2005, revenue from the monthly rate riders shall be credited to the Regulatory Asset Recovery Account (1590). Interest shall continue to apply to this account.

9.0.19 At the end of the three year period, at April 30, 2008, as there will be a residual (positive or negative) balance in the Regulatory Asset Recovery Account (1590), this balance shall be disposed of to rate classes in proportion to the recovery share as established when rate riders were implemented.

10. Phase 2 Process for Remaining Distributors

10.0.1 In the May 5, 2004 letter initiating the Phase 2 oral hearing process for the five selected distributors, the Board indicated that in addition to the Board's specific decisions for each of the five distributors, the oral hearing would also allow it to assess what would constitute the best evidence, forum and process to determine the reasonableness of the regulatory asset amounts claimed or to be claimed for the remaining distributors. At the conclusion of the oral hearing, the presiding member stated "...the Board would be assisted if parties included in their argument, submissions on these matters."

10.0.2 The Board received numerous submissions from Applicants and intervenors on implementation of the findings of the Board for the other distributors. The Applicants and representatives of other distributors are generally opposed to the use of benchmarking in determining the prudence of transition costs. CME, SEC, CCC, VECC, AMPCO and Energy Probe favoured the use of benchmarking as a screening tool.

10.0.3 The Board is charged with the responsibility of ensuring that the claimed amounts are legitimate. At the same time the Board recognizes that subjecting the other distributors indiscriminately to the same process as the four applicants in the instant proceeding will be too onerous for many distributors, intervenors and the Board. With the insights the Board has gained from the close review of the four applicants, the Board believes that an appropriate balance of discharging its responsibilities and at the same time making the process less onerous for all parties involved is for the remaining distributors is to take advantage of and contribute to a more streamlined process.

10.0.4 Specifically, the Board has determined that an effective, expedient and efficient process shall be as follows:

- all distributors shall file similar information as directed by the Board for Toronto Hydro, London Hydro and Enersource
- in addition, all distributors shall file a supplemental disclosure (described below)
- all claims filed shall be certified by the distributors' Chief Executive Officer and, if applicable, shall also be supported by an audit of the transition costs (Account 1570) by an external auditor (described below)

Supplementary Disclosure

10.0.5 A supplementary disclosure will be required from each distributor, and shall include the following:

- a statement by the distributor's Chief Executive Officer certifying that the information filed in the regulatory assets claim is consistent with the Board's accounting requirements and procedures in the Accounting Procedures Handbook, as modified by the Board's findings in this Decision and that the filing provided is consistent with the requirements of the Board's Transition Cost Filing Guidelines issued January 15, 2003, and the Regulatory Filing Guidelines issued September 15, 2003
- a statement as to which approach (billed or accrual) has been used for the RSVA accounts and Account 1571 and whether this approach has been used consistently over time and among accounts for the applicable period
- a statement as to the interest rate used to record interest and whether this interest rate is consistent with or deviates from that stipulated in the Rate Handbook for the distributor

- a statement confirming that the variance between Board-approved and actual line losses are reflected in the RSVA power (Account 1588) for the applicable period
- a statement confirming whether the method used to calculate the balances for Account 1571 conforms to the methodology recommended in this decision
- a statement confirming whether costs in Account 1525 relate solely to the costs associated with the issuance of rebate cheques and not other costs, and that such cheques were issued on or before December 31, 2002
- a reconciliation of the amounts claimed to the amounts previously filed with the Board (January 2004 filings for Phase 1 of this proceeding) setting out the differences and causes
- a statement confirming whether customer education costs in Account 1570 do not exceed $10 per customer
- a statement confirming whether transition costs claimed do not include Electronic Business Transaction (EBT) costs or costs for settlement services as found in this decision
- a statement confirming whether all cost categories in the Transition Cost Account 1570 meet the materiality criterion as outlined in the Filing Guidelines issued January 15, 2003
- a statement confirming whether all regulatory assets claimed are allocated to the rate classes based on the findings in this decision
- any supplementary information, if applicable, on the use of an internal or external audit of transition cost amounts or on the distributor's adherence to tendering guidelines

Review Options

10.0.6 There will be two alternative levels of review for a distributor. A minimum review or a comprehensive review. A minimum review will involve a written hearing whereby the Board will seek written submissions from intervenors. There shall not be cost awards for intervenors under a minimum review.

10.0.7 A comprehensive review will involve a similar process to that undertaken for the four Applicants in the present case, which may likely require an oral hearing, involving the intervenors of record in the present proceeding. The distributor shall pay any Board-assessed intervenor costs awarded under a comprehensive review.

10.0.8 The Board intends to issue further information in this matter in the near future, including the deadline for filing applications for minimum or comprehensive review.

Qualification for Minimum Review

10.0.9 The following circumstances will qualify a distributor for a minimum review:

- A positive confirmation is required for all items set out in the Supplementary Disclosure.
- A distributor must elect to accept 90% of reported transition costs (Account 1570) or $60 per customer (based on 2003 data), whichever is less.
- If the claimed amount is less than $60 but more than $30 per customer, the supplemental disclosure must be verified by the distributor's external auditor.
- If the claimed amount is less than $30 per customer, the supplemental disclosure may be certified by the Chief Executive Officer.
- If the distributor reports an amount higher than $30 per customer but wishes to claim only $30 per customer, there is no requirement that the supplemental disclosure be provided by the distributor's external auditor.

10.0.10 The 90% of reported transition costs is an approximation of the reductions that may be plausible given the Board's experience in the instant proceeding. The $60 per customer figure in transition costs is an approximation of what may be reasonably supported given the Board's experience in the instant proceeding. The $30 per customer threshold reflects the Board's intent not to unreasonably burden distributors whose claims are half of the $60 per customer threshold.

10.0.11 If a distributor will be subject to a minimum review, depending on the timing of filing by a distributor, it is possible that the rate riders may be implemented on May 1, 2005 for a three year period.

Minimum Review: May 1, 2005 Implementation

10.0.12 For a May 1, 2005 implementation, upon receipt of the Board's Hydro One order, a distributor shall reflect the Board's guidance in this decision and shall include the following:

- revised balances for each regulatory asset account (interest shown separately) as of December 31, 2003
- write off of amounts not approved
- projected interest for each account to April 30, 2005 to arrive at a gross balance for disposition
- impacts arising from the Board's order for Hydro One
- allocation of each revised account balance to rate classes
- subtraction of the actual and estimated amounts recovered from interim rate adjustments for the period April 1, 2004 to April 30, 2005, by rate class
- subtraction, if applicable, of the actual interim transition cost amounts recovered for the period from March 1, 2002 to March 31, 2004, by rate class
- net total amounts to be recovered over the next 3 years, by rate class
- net total amount per rate class, divided by 3 and divided by 2003 energy use in each rate class, determining the rate rider for each rate class

10.0.13 As of April 30, 2005, distributors shall credit their appropriate regulatory asset accounts with the December 31, 2003 revised amounts, and shall include interest on these amounts from January 1, 2004 to April 30, 2005.

10.0.14 Consequently, there will be a zero balance in Accounts 1570 (Market-Ready Transition Costs) and 1571 (Pre-Market Opening Energy). These accounts shall be discontinued.

10.0.15 The remaining ongoing accounts will contain monthly activities post December 31, 2003, and shall include interest after this date on these activities.

10.0.16 Also as of April 30, 2005, distributors shall debit the Regulatory Asset Recovery Account (1590, Recovery of Regulatory Asset Balance) by the approved total recovery amounts. Starting May 1, 2005, revenue from the monthly rate riders shall be credited to the Regulatory Asset Recovery Account (1590). Interest shall continue to apply to this account.

10.0.17 At the end of the three year period, at April 30, 2008, as there will be a residual (positive or negative) balance in the Regulatory Asset Recovery Account (1590), this balance shall be disposed of to rate classes in proportion to the recovery share as established when rate riders were implemented.

Minimum or Comprehensive Review: May 1, 2006 Implementation

10.0.18 For some distributors under minimum review, it may not be possible to implement the rate riders on May 1, 2005. Also, distributors subject to a comprehensive review will not be able to implement the rate riders on May 1, 2005. In these cases, the rate riders shall be implemented May 1, 2006 for a period of two years. In the interim, the distributor will continue to recover the portion of regulatory asset amounts on an interim basis as reflected in current rates.

10.0.19 For May 1, 2006 implementation, upon receipt of the Board's order for Hydro One, the distributor shall file, or will be asked to refile, as follows:

- revised balances for each regulatory asset account (interest shown separately) as of December 31, 2003
- write off of amounts not approved
- projected interest for each account to April 30, 2006 to arrive at a gross balance for disposition
- impacts arising from the Board's order for Hydro One
- allocation of each revised account balance to rate classes
- subtraction of the actual and estimated amounts recovered from interim rate adjustments for the period April 1, 2004 to April 30, 2006, by rate class
- subtraction, if applicable, of the actual interim transition cost amounts recovered for the period from March 1, 2002 to March 31, 2004, by rate class
- net total amounts to be recovered over the next 2 years, by rate class
- net total amount per rate class, divided by 2 and divided by 2003 energy use in each rate class, determining the rate rider for each rate class.

10.0.20 As of April 30, 2006, distributors shall credit their appropriate regulatory asset accounts with the December 31, 2003 revised amounts, and shall include interest on these amounts from January 1, 2004 to April 30, 2006.

10.0.21 Consequently, there will be a zero balance in Accounts 1570 (Market-Ready Transition Costs) and 1571 (Pre-Market Opening Energy). These accounts shall be discontinued.

10.0.22 The remaining ongoing accounts will contain monthly activities post December 31, 2003, and shall include interest after this date on these activities.

10.0.23 Also, as of April 30, 2006, distributors shall debit the Regulatory Asset Recovery Account (1590, Recovery of Regulatory Asset Balance) by the approved total recovery amounts. Starting May 1, 2006, revenue from the monthly rate riders shall be credited to the Regulatory Asset Recovery Account (1590). Interest shall continue to apply to this account.

10.0.24 At the end of the two year period, at April 30, 2008, as there will be a residual (positive or negative) balance in the Regulatory Asset Recovery Account (1590), this balance shall be disposed of to rate classes in proportion to the recovery share as established when rate riders were implemented.

11. Cost Awards and Cost Apportionment

11.0.1 The following intervenors requested a cost award for their participation: CCC, LPMA, CME, SEC, VECC, Energy Probe, and AMPCO. In each case the requested award was for 100% of costs.

11.0.2 In its argument in chief, London Hydro requested that the Board include in its order a provision for London Hydro to recover from all non-Applicant utilities in Ontario a proportionate share of the costs which London Hydro has incurred and the portion of intervenor costs for which it may be determined to be responsible based on relative customer numbers. London Hydro also requested that the provision should permit London Hydro recovery either directly from other non-Applicant utilities or as a condition of the Board's Phase 2 approval of all other non-Applicant regulatory asset accounts.

11.0.3 GLP, a distributor, objected to London Hydro's request to recover its costs from Ontario's other distributors on the basis that it is unfair, especially since it is unknown at this time as of the costs that would be incurred by the other distributors.

11.0.4 SEC submitted that the direct costs of this proceeding should be apportioned according to the following formula: 20% of the direct costs to be paid by each of the four Applicants (80% in total), 5% to be paid by EnWin, 15% to be paid by all other Applicants for Phase 2, to be paid as a filing fee.

11.0.5 In reply, London Hydro noted that the four Applicants represent approximately two-thirds of the total customer base in Ontario and proposed that a) each Applicant be responsible for their own costs; b) Board and intervenor costs be allocated two-thirds to the four Applicants and one-third to other Phase 2 Applicants to be recovered by the Board as a Phase 2 filing fee; c) the portion of the Board and intervenor costs allocated to the Applicants be divided amongst them based on relative customer numbers.

11.0.6 By letter dated November 4, 2004, Counsel to EnWin objected to the suggestion that EnWin bear any of the costs of this proceeding. We do not agree. Before EnWin's application was adjourned *sine die*, intervenors incurred costs in reviewing EnWin's prefiled material, drafted interrogatories, and reviewed responses by EnWin to those interrogatories. For Counsel to EnWin to suggest that there was no Cost Order issued by the Board at the time the Board agreed to EnWin's own request for adjournment can be characterized, charitably, as artful. We are of the view that EnWin shall also bear a fair share of intervenor costs.

11.0.7 The Board has received some cost statements by intervenors and comments by some Applicants on these cost statements. The Board wishes to ensure that before it addresses the matter of cost awards, the process is complete. Eligibility and percentage recovery of reasonably-incurred costs will be determined by the Board, as well as apportionment of such costs, in accordance with the following process. Intervenors shall file their cost statements within 15 calendar days from the issuance date of this decision. The four Applicants and EnWin shall make any reply submissions within 15 calendar days from the due date of the submissions by intervenors. The remaining distributors are invited to also make submissions regarding the apportionment of costs by that date. Intervenors may respond to submissions within 15 days from the due date of the above submissions. If due dates fall on a non-business day, due dates shall fall on the next business day.

11.0.8 Intervenors shall not include any costs incurred in preparing and making submissions or defending their cost claims.

11.0.9 Parties should note that there are no incremental Board costs assessed to this proceeding.

DATED AT Toronto, December 9, 2004

Original Signed By

Paul Vlahos
Presiding Member

Original Signed By

Jan Carr
Vice Chair and Member

Original Signed By

Cynthia Chaplin
Member