

**Ontario Energy Board**  
P.O. Box 2319  
27th Floor  
2300 Yonge Street  
Toronto ON M4P 1E4  
Telephone: 416-481-1967  
Facsimile: 416-440-7656  
Toll free: 1-888-632-6273

**Commission de l'énergie de l'Ontario**  
C.P. 2319  
27e étage  
2300, rue Yonge  
Toronto ON M4P 1E4  
Téléphone: 416-481-1967  
Télécopieur: 416-440-7656  
Numéro sans frais: 1-888-632-6273



**BY EMAIL**

December 12, 2013

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, ON M4P 1E4  
BoardSec@ontarioenergyboard.ca

Dear Ms. Walli:

**Re: Ottawa River Power Corporation (“ORPC”)  
2014 Annual IR Index Distribution Rate Application  
Board Staff Submission  
Board File No. EB-2013-0163**

In accordance with Procedural Order #1, please find attached Board staff's submission in the above noted proceeding. ORPC has been copied on this filing.

ORPC's reply submission is due on January 17, 2014.

Yours truly,

*Original Signed By*

Suresh Advani

Encl.



# **ONTARIO ENERGY BOARD**

## **STAFF SUBMISSION**

2014 ELECTRICITY DISTRIBUTION RATES

Ottawa River Power Corporation

EB-2013-0163

**December 12, 2013**

**Board Staff Submission  
Ottawa River Power Corporation  
2014 IRM4 Rate Application  
EB-2013-0163**

## **Introduction**

Ottawa River Power Corporation (“ORPC”) filed an application (the “Application”) with the Ontario Energy Board (the “Board”) on October 4, 2013, seeking approval for changes to the distribution rates that ORPC charges for electricity distribution, to be effective May 1, 2014. The Application is based on the 2014 Incentive Rate-Setting Index (“Annual IR Index”).

The purpose of this document is to provide the Board with the submissions of Board staff based on its review of the evidence submitted by ORPC.

## **The Application**

Board staff notes that while the preset disposition threshold was not exceeded for Group 1 deferral and variance accounts (DVA), the Group 1 DVA principal balances as of December 31, 2012 reconcile with the amounts reported by ORPC as part of the *Reporting and Record-keeping Requirements* (“RRR”).

In its Application, ORPC advised of a billing error issue that it had discovered in August 2013 (the “Billing Error”). ORPC described<sup>1</sup> the Billing Error as follows:

ORPC has made two adjustments that have been entered on Sheet 5, Continuity Schedule, column CH, Adj during 2012. This in turn causes the variances found in column CR. As mentioned in the ORPC letter to the Board dated Thursday, August 29, 2013, Ottawa River Power Corporation discovered a billing error that affected one of its larger customers. This has been quantified and the 2012 portion entered into this schedule.

The 2012 Continuity Schedule filed by ORPC with its Application contained two adjustments totalling \$55,523. The adjustments relate to the following two accounts:

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<sup>1</sup> Application and Evidence, Page 11

- An adjustment of \$20,311 to Account 1588, RSVA – Power; and
- An adjustment of \$35,212 to Account 1589, RSVA – Global Adjustment.

In response to Board staff interrogatories #1a, b, and c, ORPC stated that:

- The two adjustments totalling \$55,523 are the only two adjustments that ORPC identified in the 2012 Continuity Schedule;
- The Billing Error was caused by an incorrect billing multiplier, was confirmed on August 26, 2013, and impacted billing from the period of June 2006 to August 2013; and
- ORPC agreed to provide a full refund to the large customer in the total amount of \$103,000, through seven equal monthly payment adjustments ending March 2014.

ORPC also stated that with or without the adjustment the claim amount does not meet the materiality threshold test of \$0.001/kwh as set out in the *Report of the Board on Electricity Distributors' Deferral and Variance Account Review Report* (the "EDDVAR Report") report. Therefore, ORPC made no request for disposition of the Group 1 DVA balances in the Application.

Board staff has reviewed ORPC's Application and its responses to interrogatories and, other than the submissions set out below with respect to the issue of the Billing Error adjustment, has no concerns with the application and the changes agreed to by the Applicant.

### **The Billing Error**

Board staff submits that ORPC's DVA balances as at December 31, 2011, including Account 1588 and Account 1589, were disposed of on a final basis in ORPC's 2013 IRM Decision EB-2012-0158, dated April 4, 2013.

Board staff submits that there is no evidence on the record of this proceeding to assist the Board in determining the portion of the \$55,523 adjustment that could be regarded as an out-of-period adjustment (where ORPC's DVA balances as at December 31, 2011 were disposed on a final basis) and that therefore the entire amount should be considered out-of-period. It is also unclear, from the record, how the \$55,523

adjustment is related to (if at all), the total overbilling amount of \$103,000 that ORPC has stated that it will refund to its large customer. In any event, Board staff is of the view that ORPC's proposal to include any out-of-period adjustment relating to the DVA balances that were cleared (on a final basis) in the 2012 DVA should be denied based on the well-accepted regulatory principle of retroactive ratemaking.

Board staff notes that in prior Board decisions, recovery of past costs or charges relating to a particular account has not been permitted where that account had already been disposed of on a final basis, as the principles of certainty and finality are a necessary component of effective rate regulation<sup>2</sup>. A utility must maintain appropriate control of its books, records and systems and has the responsibility to ensure that mistakes of a material nature do not occur. Board staff submits that this view is consistent with past Board decisions. As such, Board staff submits that under these circumstances, it would be inappropriate for ORPC to record the total adjustment of \$55,523 in Account 1588 and Account 1589 for future recovery from its customers. Board staff submits that the Board should deny the inclusion of any out-of-period adjustment in Account 1588 and Account 1589.

Board staff notes that a utility may correct a billing error without making any change to the rates that were approved by the Board on a final basis. In addition, Board staff questions the rationale for the recovery of any amount by ORPC from all of its customers through the inclusion of the adjustments in DVAs for its billing error from one large customer which is now being corrected. Furthermore, a billing error should not impact any DVA balances that are still subject to future Board review and approval for disposition.

Board staff submits that the utility-customer relationship at issue is between ORPC and the one large customer of ORPC, for which adequate guidance has been provided in the Retail Settlement Code (RSC). Board staff notes that Section 7.7.7 of RSC addresses under-billing or over-billing situations as follows:

Where the distributor has under billed a customer or retailer, the maximum period of under billing for which the distributor is entitled to be paid is 2 years. Where the distributor has over billed a customer or retailer, the maximum period of over billing for which the customer or retailer is entitled to be repaid is 2 years.

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<sup>2</sup> EB-2013-0022, Decision and Order, Veridian Motion to Review, April 25 2013, p. 10

As such, ORPC may choose to consider the RSC to pursue further discussions with its large customer.

All of which is respectfully submitted