

**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 E-MAIL

November 1, 2017

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: InnPower Corporation (InnPower)
Application for Rates
Ontario Energy Board File Number: EB-2016-0085
OEB Staff Submission – Changes to the Pole Attachment Charge and
microFIT Charge**

In accordance with the OEB's Procedural Order No. 6, please find attached OEB staff's submission in the above noted matter. InnPower, Rogers Communications Canada Inc., the School Energy Coalition, and the Vulnerable Energy Consumers Coalition have been copied on this filing.

Yours truly,

Original Signed By

Fiona O'Connell
Project Advisor, Major Applications

Encl.

2017 ELECTRICITY DISTRIBUTION RATES

INNPOWER CORPORATION

EB-2016-0085

OEB STAFF SUBMISSION

**CHANGES TO THE POLE ATTACHMENT CHARGE
AND MICROFIT CHARGE**

November 1, 2017

Summary of OEB Staff Submission

On May 11, 2017, InnPower Corporation (InnPower) filed an amended cost of service application (application) with the Ontario Energy Board (OEB) seeking to increase its electricity distribution rates, effective July 1, 2017.

On August 4, 2017, as part of InnPower's responses to interrogatories, the request to increase its pole attachment charge was withdrawn.¹ On August 23, 2017, the OEB received a letter from InnPower's counsel advising that InnPower was withdrawing the request in its application to increase charges for the microFIT rate class.

In Procedural Order No. 6, dated October 10, 2017, the OEB asked InnPower, intervenors and OEB staff to provide written submissions on whether the OEB should consider changes to InnPower's pole attachment charge and microFIT charge in this proceeding.

OEB staff submits that the OEB should not consider changes to InnPower's pole attachment charge or microFIT charge. In both cases, InnPower seeks to use the charge that has been established based upon a province-wide costing review. In the absence of a live request from InnPower to change these amounts, the OEB should continue to apply the province-wide pole attachment charge and microFIT charge in this proceeding.

Pole Attachment Charge

Background

In 2003, the Canadian Cable Television Association filed an application with the OEB² seeking uniform terms of access and a province-wide pole attachment charge.

After hearing expert witnesses and extensive submissions on behalf of cable companies and Ontario's licensed electricity distributors, the OEB formulated and

¹ Responses to Interrogatories Service Charge Specific Procedural Order #2, August 4, 2017, p.2

² EB-2003-0249

applied a methodology to arrive at a pole attachment charge of \$22.35 (the Provincial Charge). In its Decision in that case (the 2005 Decision) the OEB ordered that the licence conditions of all Ontario licensed electricity distributors (LDCs) be amended to provide for access to power poles at the charge of \$22.35 per pole per year. The 2005 Decision also indicated that this charge can be varied where appropriate and stated that:

Any LDC that believes that the province-wide rate³ is not appropriate can bring an application to have the rates modified based on its own costing.⁴

Since 2005, the Provincial Charge has been consistently applied, with the exception of three (3) cases where LDCs sought to deviate from the Provincial Charge:

- In its most recent custom incentive rate application, Toronto Hydro reached a settlement with intervenors to change the pole attachment charge to \$42.00 per pole per year; the OEB approved the settlement agreement.⁵
- In Hydro Ottawa's most recent custom incentive rate application, the OEB approved a pole attachment charge of \$53.00 per pole per year.⁶
- In Hydro One's most recent custom incentive rate application, the OEB approved a pole attachment charge of \$41.28 per pole per year.⁷

OEB staff also notes that there is an ongoing policy review of wireline pole attachments that is considering the methodology used for determining pole attachment charges.⁸ It is anticipated that the OEB will issue a final report based on its review at the conclusion of the consultation.

³ Rate and charge are used interchangeably

⁴ Decision and Order, March 7, 2005 (RP-2003-0249), p. 8.

⁵ Decision on Settlement Proposal, July 23, 2015; Settlement Proposal filed June 11, 2015 (EB-2014-0116).

⁶ Decision and Rate Order on Pole Attachment Charge, February 25, 2016 (EB-2015-0004), p. 1.

⁷ Decision and Rate Order on Motion to Review and Vary EB-2013-01416/EB-2014-0247.

Approving Distribution Rates and Charges for Hydro One Networks Inc. for 2015-2017, August 4, 2016 (EB-2015-0141), p. 1.

⁸ EB-2015-0304

InnPower's Application

In this proceeding, InnPower does not seek to deviate from the Provincial Charge. In its amended 2017 cost of service application, InnPower requested an increase in the annual pole attachment charge from \$22.35 to \$47.50 per pole.⁹ However, it has since withdrawn that request.¹⁰

After becoming aware of InnPower's intention not to increase the pole attachment charge, the School Energy Coalition (SEC), an intervenor in this proceeding, wrote to the OEB stating that the evidence filed by InnPower shows that the pole attachment charge should be increased. SEC stated that, as a result of proper cost allocation, the rates to all other customers would be decreased if the pole attachment charge is increased. SEC is of the view that the appropriate pole attachment charge remains a relevant issue in this proceeding.

SEC further stated that the OEB should order InnPower to respond to the interrogatory questions related to the pole attachment charges. InnPower had responded to these interrogatories by stating that the questions were "not applicable."¹¹

By way of letter dated August 28, 2017, InnPower's counsel stated that InnPower no longer sought to increase the pole attachment charge because of the OEB's ongoing review of pole attachment charges.¹² InnPower also indicated that it was unable to reproduce the calculations in support of the \$47.50 charge as they were prepared by individuals no longer employed with the company. InnPower indicated that a defensible pole attachment charge would likely be much lower than \$47.50 and would result in an annual increase in revenue below the materiality threshold for this application.¹³

⁹ InnPower's Amended Cost of Service Application, May 6, 2017, p. 97.

¹⁰ InnPower's Responses to Interrogatories Service Charge Specific Procedural Order #2, August 4, 2017, p. 2.

¹¹ InnPower interrogatory response "InnPower IRR Procedural Order 2_EB-2016-0085_20170804.PDF"

¹² InnPower's Letter to the OEB, August 28, 2017. See also InnPower's Letter to the OEB, August 23, 2017.

¹³ InnPower's Letter to the OEB, August 28, 2017.

Submission

OEB staff submits that the OEB should not consider a change to InnPower's pole attachment charge in this proceeding. The evidence previously filed by InnPower on the pole attachment charge does not appear to be reliable (as InnPower indicated that it could not reproduce the calculation to arrive at the \$47.50 referenced in its application) and should not form the basis for an increased pole attachment charge.

OEB staff submits that InnPower's continued use of the provincial charge is appropriate given that there is an ongoing policy review of pole attachment charges.¹⁴ While it is not certain when a new policy will be adopted, the new policy (similar to the generic 2005 Decision) may have an impact on pole attachment charges for all LDCs, including InnPower. In addition, OEB staff anticipates that any policy outcome will address not only the applicability of the new policy to all rate regulated LDCs but will also address the implementation timing of that new policy.

Given the ongoing policy review, OEB staff is concerned that embarking on a review of InnPower's pole attachment charge could result in duplication of effort and complicate this application in a manner that is disproportionate to any ultimate impact on ratepayers.

OEB staff notes that when there is a policy consultation underway, the general approach is to await for the conclusion of the consultation to determine potential rate impacts. OEB staff notes that in other policy reviews, such as the *Regulatory Treatment of Pension and Other Post-Employment Benefits Costs*¹⁵, any changes resulting from the review were implemented going forward through a variance account established after the completion of the review. That policy did not require its implementation to take place only at rebasing.

As confirmed in the technical conference¹⁶, the revenue associated with InnPower's original request to increase its pole attachment charge was \$164k. However, in its August 28, 2017 letter to the OEB, InnPower stated:

¹⁴ Pole Attachment Working Group (PAWG) EB-2015-0304.

¹⁵ EB-2015-0040

¹⁶ InnPower_transcript_vol1_TC_20170912, page. 128-130.

If asked to re-calculate a new pole attachment rate using numbers that InnPower believes would be defensible (which InnPower has done in a rough, back of the envelope analysis), the result would be a much lower proposed pole attachment rate. While still slightly higher than the CCTA ordered rate, the total value of the incremental revenue in a year would be less than InnPower's materiality threshold for this application.¹⁷

OEB staff notes that the materiality threshold for this application is approximately \$60k.

If the OEB panel in this proceeding is concerned with whether the impact of an increase to a pole attachment charge is material for the period between InnPower's (to be determined) effective date for this proceeding and the (to be determined) effective date of any new policy that may be established on a generic basis, an alternative approach that could be considered is to provide for an InnPower-specific variance account to capture the difference between the revenue accrued at the current charge (\$22.35) and any revised provincial charge that may be set when the final OEB policy is issued.

Alternatively, the OEB panel could request that InnPower file a stand-alone application for a revised utility-specific pole attachment charge following the issuance of the policy, if the policy contemplates that option and InnPower's proposed rate varies significantly from the provincial charge.

InnPower's rates were declared interim as of January 1, 2017. If the OEB was to elect to establish a new variance account at this time, the OEB could establish that account as early as January 1; although it is OEB staff's view that the effective date of any variance account should be aligned with the effective date of InnPower's new rates flowing from this proceeding. InnPower revised its request for an effective date to July 1, 2017. OEB staff argued for an October 1, 2017 effective date in its main submission on this case, but also noted that the OEB could establish an effective date which is the first of the month following the issuance of its decision. In this case, the effective date would be much later than October 1. In its October 31, 2017 main submission, VECC agreed with OEB

¹⁷ InnPower's Letter to the OEB, August 28, 2017.

staff that October 1, 2017, would be a fair and appropriate effective date. However, VECC was also of the view that the OEB remain open to a later effective date, depending on its determinations on the issue of OM&A. In its October 30, 2017 main submission, SEC submitted that the effective date of the rates in this proceeding should be the first of the month following the rate order.

Finally, OEB staff notes that a variance account of this nature has not been established for other LDCs nor was it established to capture the impacts of the differences between accrual and cash accounting for the majority of LDCs for pension and OPEBs during the course of that consultation. Therefore, in OEB staff's view, awaiting the outcome of this pole attachment consultation, given the applicant's withdrawal of its request to increase the charge (and its own uncertainty with respect to any evidence that it may be required to be re-filed) is the prudent course of action to take as the amount of effort to accomplish an accurate InnPower-specific review at this time appears to be disproportionate to any ultimate impact on ratepayers.

microFIT Charge

Background

In 2009, the OEB initiated a proceeding to determine and implement a distribution charge for microFIT projects. On March 17, 2010, the OEB established a province-wide charge for LDCs related to the microFIT rate class at \$5.25 per month.¹⁸

On September 20, 2012, the OEB increased the province-wide microFIT charge to \$5.40 per month in the LDCs' 2013 rate applications.¹⁹ The OEB further reminded LDCs that they may request a distributor-specific microFIT charge as part of their cost of service applications.²⁰ Examples of previous cases that established increased microFIT charges are:

¹⁸ Rate Order, March 17, 2010 (EB-2009-0326).

¹⁹ OEB's Letter to LDCs, September 20, 2012 (EB-2009-0326, EB-2010-0219).

²⁰ OEB's Letter to LDCs, September 20, 2012 (EB-2009-0326, EB-2010-0219).

- Wasaga Distribution 2016 CoS proceeding – increase to \$10.00.²¹
- St. Thomas Energy Inc. 2015 CoS proceeding – increase to \$10.00.²²
- Renfrew Hydro Inc. 2017 CoS proceeding – increase to \$10.00²³
- Welland Hydro-Electric System Corp. 2017 CoS proceeding – increase to \$11.00²⁴
- Hydro Ottawa Limited 2016 Custom IR proceeding – increase to \$18.00 for 2016, 2017 and increase to \$19.00 for 2018, 2019, 2020²⁵
- Wellington North Power Inc. 2016 CoS proceeding – increase to \$15.69²⁶

InnPower's Application

In this proceeding, InnPower does not seek to deviate from the established province-wide charge of \$5.40. In its amended 2017 cost of service application, InnPower requested an increase in the microFIT charge from \$5.40 to \$10.00. It stated that the proposed increase was to cover costs associated with establishing these accounts.²⁷

In a letter to the OEB dated August 23, 2017, InnPower advised that it will be withdrawing the requested microFIT increase. InnPower explained that the basis for the requested increase had been one-time costs that occur before a microFIT customer is connected but accepted that these one-time costs should not be used in determining the monthly microFIT charge.²⁸

Submission

OEB staff submits that the OEB should not consider a change to InnPower's microFIT charge at this time. The \$5.40 charge is consistent with the established

²¹ EB-2015-0107 February 24, 2016 Settlement Proposal p. 40 of 40.

²² EB-2014- 0113 rate Order_StThomasCoS_20141218, p. 2.

²³ EB-2016-0166 Renfrew Hydro Inc Settlement Proposal Page 39 of 51 January 20, 2017

²⁴ EB-2016-0110 Welland Hydro-Electric System Corp. Settlement Proposal Page 35 of 64 April 19, 2017

²⁵ EB-2015-0004 Hydro Ottawa Limited Settlement Proposal; December 7, 2015 Page 45 of 60

²⁶ EB-2015-0110 Wellington North Power Inc. Settlement Proposal March 4, 2016 Page 39 of 133

²⁷ InnPower's Amended Cost of Service Application, May 6, 2017, p. 88.

²⁸ InnPower's Letter to the OEB, August 23, 2017.

province-wide standard and there is no basis to revisit this as InnPower no longer seeks to change the microFIT charge. OEB staff also notes that the OEB reviews the generic microFIT charge annually and while it has done so only once since the establishment of the original charge, may alter the generic charge as needed going forward.

In its initial application, InnPower also requested a change to the microFIT rate class to also include net metering accounts.²⁹ OEB staff notes that InnPower has not altered this request. InnPower's counsel subsequently advised that InnPower currently has no net metering customers.³⁰ OEB staff also notes that the OEB is currently leading a policy consultation on net metering which will consider, among other things, how to best manage and recover distributor administrative costs related to net metering.³¹ In the circumstances, OEB staff submits that the OEB does not need to address the specific issue of changing the microFIT rate class to include net metering accounts at this time.

All of which is respectfully submitted

²⁹ InnPower's Cost of Service Application, November 28, 2016, Exhibit 8, p. 7.

³⁰ OEB's Letter to the OEB, August 23, 2017.

³¹ OEB's Letter to LDCs and All Other Interested Parties, May 25, 2017 (EB-2017-0200).