

**Ontario Energy  
Board**

P.O. Box 2319  
2300 Yonge Street  
27<sup>th</sup> Floor  
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  
2300, rue Yonge  
27<sup>e</sup> étage  
Toronto ON M4P 1E4  
Téléphone: 416- 481-1967  
Télécopieur: 416- 440-7656  
Numéro sans frais: 1-888-632-6273



Ontario

**BY E-MAIL**

December 10, 2015

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: Hydro Ottawa Limited  
OEB File No. EB-2015-0004**

Please find attached OEB staff's submission with respect to the second amendment to the settlement proposal filed on December 7, 2015 for Hydro Ottawa Limited's custom incentive rate-setting application and the December 8, 2015 correspondence regarding interim rates.

Yours truly,

*Original signed by*

Violet Binette  
Project Advisor, Applications

Attach

**HYDRO OTTAWA LIMITED**  
**2016-2020 ELECTRICITY DISTRIBUTION RATES**

**EB-2015-0004**

**Ontario Energy Board**  
**Staff Submission**  
**Amended Settlement Proposal -**  
**Confidentiality and New Buildings**

**December 10, 2015**

## **INTRODUCTION**

Hydro Ottawa Limited (Hydro Ottawa) filed a custom incentive rate (Custom IR) application with the Ontario Energy Board (OEB) on April 29, 2015 to seek approval for changes to the rates that Hydro Ottawa charges for electricity distribution, to be effective January 1, 2016 and for each following year through to 2020.

On September 18, 2015, Hydro Ottawa proposed settlement of all issues within Hydro Ottawa's Custom IR application, except for the specific service charge called "Access to Power Poles" (pole attachment rate) and working capital allowance. The OEB held an oral hearing on pole attachment rate on October 16, 2015. Hydro Ottawa filed a lead-lag study and an amended settlement proposal that set out working capital allowance proposed by the parties on November 5, 2015.

The OEB issued the Decision on Settlement Proposal and Procedural Order No. 11 on November 23, 2015. The OEB did not accept the provisions of the settlement proposal relating to confidentiality and privilege, referring to recent decisions on this matter.<sup>1</sup> The OEB also found that there was insufficient evidence to determine the prudence of the new administration and operations buildings, but accepted the remainder of the settlement proposal including the working capital allowance amendment.

Hydro Ottawa filed a second amendment to the September 18, 2015 settlement proposal on December 7, 2015. The amendment was related to confidentiality and privilege provisions, and the new administration and operations buildings.

## **CONFIDENTIALITY AND PRIVILEGE**

The second amendment to the September 18, 2015 settlement proposal sets out revised wording regarding the confidentiality of settlement conferences. OEB staff confirms that the second amendment proposes wording that is consistent with confidentiality and privilege wording in recently filed settlement proposals that the OEB has approved.

Hydro Ottawa also filed a consolidated settlement proposal on December 7, 2015. It integrates the November 5, 2015 amendment and the December 7, 2015 amendment with the original September 18, 2015 settlement proposal. This consolidated version also reflects the confidentiality and privilege wording in recently filed settlement proposals that the OEB has approved.

---

<sup>1</sup> Kingston Hydro Corporation (EB-2015-0083), Guelph Hydro Electric Systems Inc. (EB-2015-0073) and Waterloo North Hydro Inc. (EB-2015-0108)

## **NEW BUILDINGS**

The September 18, 2015 settlement proposal documented the parties' acceptance of Hydro Ottawa's proposed budget of \$73 million for the construction of Hydro Ottawa's new administration and operations buildings (the New Buildings). Through settlement, the parties agreed to Y-factor treatment up to a "cap" of \$73 million for the buildings, and also agreed that the cost for \$19 million for land would remain in construction work in progress until the New Buildings go into service. A new Y-factor account would capture the revenue requirement of the costs associated with the New Buildings when the New Buildings were placed in service. Pending completion of the New Buildings, Hydro Ottawa would apply for rate riders in the Custom IR term to recover revenue requirement for the New Buildings and also to reflect the removal of existing facilities and land from rate base.

In the Decision on Settlement Proposal and Procedural Order No. 11, the OEB found that while Hydro Ottawa had demonstrated the need for the New Buildings, the prudence of the \$73 million construction cost and \$19 million land cost was not sufficiently supported. The OEB found that the current record was lacking in justification for areas including contingency, future growth and efficiency. The OEB approved Y-factor treatment based on the recovery of up to \$66 million combined for the proposed New Buildings (\$51 million) and the land (\$15 million). The decision stated, "The \$66 million was determined by the OEB as a reasonable amount to enable Hydro Ottawa to proceed with the Request for Proposal process while ensuring that any additional cost of the New Buildings and the land is subject to a prudence review at a future date."

As summarized in the second amendment to the settlement proposal filed on December 7, 2015, the parties have agreed to amend the settlement proposal regarding the New Buildings. The parties accept the OEB's decision to approve Y-factor treatment based on the recovery of up to \$66 million combined for the proposed New Buildings and the land.

In addition, the parties propose to establish a deferral or variance account to record the value of the incremental revenue requirement in the event that Hydro Ottawa seeks to recover from its customers any total capital cost greater than \$66 million for the buildings and land (the New Facilities Account). The account would only capture revenue requirement amounts applicable to the period between the New Buildings being put in-service and the applicant's next rebasing application. Hydro Ottawa would apply to dispose of any balance in the New Facilities Account in the next re-basing proceeding. The amounts in the New Facilities Account will be subject to a prudence review.

The criteria for establishing new deferral and variance accounts are listed below<sup>2</sup>:

- Causation – The forecasted expense must be clearly outside of the base upon which rates were derived;
- Materiality – The forecasted amounts must exceed the OEB-defined materiality threshold and have a significant influence on the operation of the distributor, otherwise they must be expensed in the normal course and addressed through organizational productivity improvements; and
- Prudence – The nature of the costs and forecasted quantum must be reasonably incurred although the final determination of prudence will be made at the time of disposition. In terms of the quantum, this means that the applicant must provide evidence demonstrating as to why the option selected represents a cost-effective option (not necessarily least initial cost) for ratepayers.

OEB staff submits that the causation criterion is met as the New Building expenses are outside the determination of base rates. Hydro Ottawa's materiality threshold for the Custom IR application is \$880,000. OEB staff reviewed the illustrative Y-factor account example at Attachment 3 of the September 18, 2015 settlement proposal and the consolidated December 7, 2015 settlement proposal. Assuming the account additions relate to the \$26 million difference between the parties' initially proposed capital costs and the cap approved by the OEB in its decision (\$92 million - \$66 million), the potential revenue requirement impact in the Custom IR term could exceed the materiality threshold.

OEB staff notes that the parties did not propose a deferral account in the original settlement proposal filed on September 18, 2015. Under that proposal, Hydro Ottawa would not recover revenue requirement in the Custom IR term for New Building and land expenses above \$92 million. The Decision on Settlement Proposal and Procedural Order No. 11 stated that costs above \$66 million would be subject to a prudence review at a future date. The decision did not exclude consideration of impacts in the Custom IR term. The second amendment to the settlement proposal acknowledges the need for prudence review of the amounts in the New Facilities Account. Clearly, there is no guarantee of recovery of the account balance and Hydro Ottawa will need to demonstrate prudence to dispose of the account and to increase rate base with its application at the end of the Custom IR term. OEB staff submits that the proposed New Facilities Account generally meets the criteria for establishing new accounts and is consistent with the Decision on Settlement Proposal and Procedural Order No. 11.

---

<sup>2</sup> Filing Requirements For Electricity Distribution Rate Applications - 2015 Edition for 2016 Rate Applications

## REQUEST FOR INTERIM RATES

In correspondence filed with the OEB on December 8, 2015, Hydro Ottawa requested interim rates in the event the OEB is unable to issue a final rate order in sufficient time for January 1, 2016 implementation.

Hydro Ottawa requested that the OEB “grant an Order rendering interim the rates and charges set out in Appendix 2-Z of the Amended September 18, 2015 Settlement Proposal as filed December 7, 2015. Approving these rates would be consistent with the OEB’s finding in Procedural Order No. #11, namely that the non-facilities related elements of Hydro Ottawa’s settlement proposal reflect the public interest.”

Alternatively, Hydro Ottawa suggested that the OEB decide to make the current rates and charges interim effective January 1, 2016. Hydro Ottawa referred to the September 18, 2015 settlement and the agreement of the parties to implement a foregone rate rider if required.

OEB staff notes that if rates are to be made interim, it is the normal approach for this to be the current rates and charges, not the proposed rates and charges. There are some exceptions. In the North Bay Hydro Distribution Ltd. 2015 rate proceeding, the OEB removed the working capital allowance from the list of issues that could be settled by the parties. In the July 15, 2015 Decision and Order, the OEB granted North Bay Hydro’s request to establish rates on an interim basis, using the rates set out in the settlement proposal. The OEB established a process for the filing of evidence and examination of working capital, following which the OEB would set final rates.

The OEB has yet to make decisions in the current proceeding on the confidentiality and privilege of the settlement conference process, the New Buildings and the pole attachment rate. Of these three matters, the only one that affects distribution revenue requirement is the pole attachment rate.

In OEB staff’s view whether the OEB should approve interim rates or not is contingent on whether the settlement is accepted and the timing of the decision on the pole attachment rate. If the second amendment to the settlement proposal is accepted but the decision on the pole attachment rate has not been issued, OEB staff submits that all rates, but for the pole attachment rate, should be made final pending the decision on the pole attachment rate. A variance account could then be approved for the pole attachment revenue to record the difference between revenue based on the interim pole attachment rate (i.e \$22.35) and revenue based on the rate approved in this proceeding, with interest. This difference would be cleared to customers as part of the

next rate adjustment. This approach would eliminate any need to develop and implement rate riders for foregone revenue if the current rates are made interim, or a potential mid-year rate adjustment if the proposed rates are made interim.

If the OEB does not accept the second amendment to the settlement proposal, OEB staff agrees that that current rates should be made interim.

Furthermore, it is OEB staff's understanding that Hydro Ottawa requires a rate order by January 15, 2016 to implement rates for January 1, 2016. If the amended settlement is accepted and the decision is issued on the pole attachment rate, no interim rates are required provided that the rate order is issued by that date.

All of which is respectfully submitted.