2018 Cost of Service Application

Interrogatory Responses – Procedural Order #2

EB-2017-0039

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IR2-Staff-1

DVA Accounts

REF: Essex Powerlines Corporation – Chronology (6)

In the 2014 IRM proceeding, Essex Powerlines indicated that it had refunded the net amount of $1.8M in Group 1 DVAs to customers twice as a result of not transferring Group 1 DVA balances to account 1595 for the amounts approved for final disposition in the 2012 IRM proceeding. In the reference above, Essex Powerlines indicated that the DVA balances as at January 1, 2013 were adjusted in the 2015 IRM proceeding to offset the duplicative refund approved for final disposition in the 2014 IRM proceeding.

a) For each DVA account involved in the double refund in the 2015 IRM. Please complete the table in the excel file provided, tab IR2-Staff-1, with the following information. The total balances pertaining to the recovery of duplicative refund for each Group 1 account involved; the dollars allocated to each customer class; a reconciliation of the recovery amount and the disposition approved on an interim basis; and the calculation of a rate rider relating to the recovery amount.

b) Please also provide the number of customers affected for each rate class and the total dollar bill impact in this proceeding for each customer class if the duplicative refund is reversed.

Response

a) Please refer to Attachment 1-A.

b) Consistent with IR2-Staff-1, the table below outlines the impact per rate class.

		RESIDENTIAL SERVICE CLASSIFICATION	GENERAL SERVICE LESS THAN 50 KW SERVICE CLASSIFICATION	GENERAL SERVICE 50 TO 4,999 KW SERVICE CLASSIFICATION	EMBEDDED DISTRIBUTOR	UNMETERED SCATTERED LOAD SERVICE CLASSIFICATION	SENTINEL LIGHTING SERVICE CLASSIFICATION	STREET LIGHTING SERVICE CLASSIFICATION	Total
LV Variance Account	1550	9,584	2,543	8,242		57	14	209	20,649
Smart Metering Entity Charge Variance Account	1551	0	0	0		0	0	0	0
RSVA - Wholesale Market Service Charge	1580	463,354	122,955	398,446		2,741	667	10,125	998,288
RSVA - Retail Transmission Network Charge	1584	(551,520)	(146,351)	(474,261)		(3,263)	(795)	(12,051)	(1,188,241)
RSVA - Retail Transmission Connection Charge	1586	154,972	41,123	133,263		917	223	3,386	333,884
RSVA - Power (excluding Global Adjustment)	1588	(761,422)	(202,050)	(654,759)		(4,504)	(1,097)	(16,638)	(1,640,470)
RSVA - Global Adjustment	1589	621,384	144,283	2,511,701		3,916	579	28,284	3,310,147
Total of Group 1 Accounts		**(63,648)**	**(37,497)**	**1,922,632**	**0**	**(136)**	**(409)**	**13,315**	**1,834,257**
Total Group 1 exculting GA		**(685,032)**	**(181,780)**	**(589,069)**	**0**	**(4,052)**	**(988)**	**(14,969)**	**(1,475,890)**
Total GA		621,384	144,283	2,511,701	0	3,916	579	28,284	3,310,147
Total of Group 1 Accounts		**(63,648)**	**(37,497)**	**1,922,632**	**0**	**(136)**	**(409)**	**13,315**	**1,834,257**

IR2-Staff-2

DVA Accounts

REF: Essex Powerlines Corporation – Chronology (6)

In the reference above, Essex Powerlines advised that it submitted a revised 2015 IRM DVA continuity schedule after it realized that the OEB approved disposition amounts for 2012 had not been moved to their respective 1595 accounts.

a) Please provide, in electronic format, the 2015 DVA continuity schedule before and after the revision

b) Please indicate how Essex Powerlines recorded the 2012 rate rider refunds to customers in its general ledger (GL) (i.e. Account 1595, Sub-account 20xx or another GL account).

Response

a) Please refer to Attachments 1-B (Before & After Revisions).

b) EPLC recorded the 2012 rate rider refunds to customers in Account 20-1595-2012. Please see the table below summarizing the entries within each sub-account of 1595 and further divided by OEB approved disposition as compared to rate rider recoveries and refunds to customers as determined during the OEB audit and interest as calculated during the OEB audit.

Historical General Ledger Detail by 1595 Sub-Account: Principal and Interest Combined

	2010	2011	2012	2013	2014	Closing Balance
	-335,919.76	-1,587,284.01	-1,266,440.41	283,784.59	1,227,285.92	
1590	-1,251,364.25	159,768.21	-24,977.93	-24,832.75	1,477,326.48	0.00
1595-2010	0.00	161,075.39	448,576.50	379,176.01	-1,231,224.44	-242,396.54
1595-2012	0.00	0.00	1,126,626.43	589,158.07	-1,973,536.58	-257,752.08
1595-2014	0.00	0.00	0.00	0.00	-1,412,146.32	-1,412,146.32
Total	-1,587,284.01	-1,266,440.41	283,784.59	1,227,285.92	-1,912,294.94	-1,912,294.94

Account 1595 Balances by OEB Decision:					
	2010	2011	2012	2013	2014
Opening Balance		-1,580,882.38	-1,141,281.10	500,089.18	1,458,351.81
2010 COS approved balance	-1,868,274.00				
Recoveries/Refunds	297,775.28	461,167.99	412,432.56	371,259.21	150,817.76
2012 IRM approved balance					-1,933,415.00
Recoveries/Refunds			1,254,163.34	597,074.87	21,925.75
2014 IRM approved balance					-3,000,365.00
Recoveries/Refunds					1,584,777.01
Total New Interest	-10,383.66	-21,566.71	-25,225.62	-10,071.45	-21,509.35
Total	-1,580,882.38	-1,141,281.10	500,089.18	1,458,351.81	-1,739,417.02

Notes:

1. Excludes 2012 IRM and 2014 IRM requested balances for Account 1590 as these were not included in the calculation of rate riders.

2. Refunds and recoveries agree to OEB reconstructed balances per OEB Audit not the historical general ledger

3. New interest as calculated during OEB audit

4. 2014 Closing balance matches to OEB audited closing balance

IR2-Staff-3

DVA Accounts

REF: Essex Powerlines Corporation – Chronology Schedule A

In Table 8 of Schedule A, Essex Powerlines showed a balance of $1,715,784 in account 1595.

a) Please complete the table in the excel file provided, tab IR2-Staff-3, with the requested information.

b) OEB staff's understanding is that Essex Powerlines realized that the 2012 balances had not been moved to 1595 accounts and that it adjusted all the 2013 opening balances of the principal accounts and 1595 as if the 2012 balances were moved in 2012, and that Table 8 is an illustration of those adjustments. Please confirm that OEB staff understanding is correct. If that understanding is incorrect, please provide an accurate explanation.

c) Please provide the proposed disposition method for the $1,715,784 debit in account 1595 if it were to be approved for disposal.

Response

a) The table provided has not been completed as EPLC is not seeking disposition for $1,715,784 as indicated in IR2-Staff-3 c) below.

b) On the final DVA continuity schedules, EPLC recorded the 2012 IRM approved disposition for principal and interest on the DVA continuity schedule in columns AA and AI respectively.

c) EPLC is not currently seeking a disposition for $1,715,784.

9-SEC-43

REF: 9.9-Staff-80

Does the Applicant agree that Table 9 of the Audit Report accurately represents the impacts of the various dispositions that have been made? If not, please explain in detail in which ways the table is incorrect and what the appropriate calculations should be.

Response

a) EPLC agrees.

9-SEC-44

REF: 9.9-Staff-80

With respect to the unsettled issue:

a. Please confirm that that in EB-2011-0166 (2012 IRM) the Board approved disposition of various the Group 1 DVA accounts, excluding holding accounts (1590 and 1595), which resulted in a refund of $3.3M to all non-RPP customers, and a collection of 1.5M from all customers.

b. Please confirm that disposition referred to in part (a) was done on a final basis.

c. Please confirm that in EB-2013-0128 (2014 IRM) the Board approved disposition of the Group 1 DVA accounts, excluding holding accounts (1590 and 1595, which resulted in a refund to non-RPP customers of $8.8M and a collection from all $5.7M from all customers.

d. Please confirm that the Applicant in seeking disposition of the Group 1 DVA accounts referenced in part (c) included erroneously included duplicate deposition that was referenced in part (a).

e. Please confirm that disposition referred to in part (c) was done on a final basis.

f. Please confirm that in EB-2014-0301/0072 (2014 IRM) the Board approved disposition of the Group 1 DVA accounts, excluding holding accounts (1590 and 1595, which resulted in recovery of 4.4M from all non-RPP customers, and a refund of 3.7M from all customers.

g. Please confirm that the Applicant in seeking disposition of the Group 1 DVA accounts referenced in part (f) included a collection from non- RPP customers of $3.3M and a refund to all customers of 1.5M, so as to off-set the issue identified in part (d).

h. Please confirm that disposition referred to in part (f) was done on an interim basis.

i. If any aspect of parts (a)-(i) is not confirmed, please explain what aspects the Applicant disputes.

Response

a) Confirmed.

b) Confirmed.

c) Confirmed.

d) Confirmed.

e) Confirmed.

f) Confirmed.

g) Confirmed.

h) Confirmed.

i) Not applicable.

9-SEC-45

REF: Chronology, para 3

Does the Applicant agree that it made adjustments to deferral and account balances that had previously been approved for disposition on a final basis? If so, please explain how that does not constitute retroactive ratemaking.

Response

EPLC confirms that the deferral and account balances were approved on a final basis.

However, that approval did not involve a reasoned or deliberated decision on the matter. Rather, it was an administrative issue and effectively treated in an administrative way. In other words, the Board is not being asked to change a specific finding that is part of a rate order.

From a legal perspective, a regulatory agency has the authority to make corrections to final orders (including rate orders) in order to correct mistakes that were incorporated into such orders. See: *Macauley's Practice and Procedure in Administrative Tribunals*, at p. 27A-5; *Grier v. Metro International Trucks Ltd.*, [1996] O.J. No. 538, at p. 7 (Div. Ct.); and *Kingston v. Ontario (Mining & Lands Commissioner)* (1977), 18 O.R. (2d) 166 (Div. Ct.). There is no legal constraint respecting the quantum of an error to qualify for this treatment. It is driven by the need to have correct information supporting legal orders.

The Board's authority to correct an error is reflected in Rule 41.02 of The Board's Rules of Practice and Procedure and in Board's 2015 Distribution Rate Filing Requirements which provide that a distributor may report on adjustments made to DVA balances previously approved by the OEB on a final basis with an explanation. See: 2015 Distribution Rate Filing Requirements, s. 3.2.3.

9-SEC-46

REF: Chronology, para. 2-5

Please explain in detail how the “overpayment” occurred.

Response

The evidence and the argument in the 2015 IRM Application on this matter are summarized in the Audit Report as follows:

> As part of its 2015 IRM rate application, Essex Powerlines requested disposition of Group 1 DVA debit balance of $1,522,723 as at December 31, 2013. Excluding the balances in Account 1590 and 1595, the amount requested was a $4.5 million debit to be received from all customers and a $5.7 million credit to be refunded to non-RPP customers.

In its reply submission on January 19, 2015 Essex Powerlines stated:

> Essex also realized during its review of all the variance accounts that the Board Approved disposition amounts for 2012 had not been moved to their respective 1595 accounts. The time period for the 2010 and 2012 disposition amounts has concluded and therefore they have been added to the model in their applicable 1595 accounts to ensure the correct amount is used for disposition in 2015, which explains the variance in the RRR vs 2013 balance column.

> At the same time, Essex Powerlines submitted a revised rate generator model with changes to the 2015 IRM DVA continuity schedule. Adjustments were made to the revised continuity schedule which impacted the opening principal and interest amounts for Group 1 DVAs as at January 1, 2013. The adjustments made by Essex Powerlines to the opening balances as at January 1, 2013 were equal and offsetting to the amounts approved for disposition on a final basis in the 2012 IRM proceeding, i.e., $1.5 million debit for all customers, $3.3 million credit for non-RPP customers, net $1.8 million credit . As a result, the opening balances as at January 1, 2013 did not match the closing balances as at December 31, 2012 from the 2014 IRM DVA continuity schedule.

Essex Powerlines included a table in its reply submission demonstrating that the amounts "added to the model" resulted in the variance between the RRR filing and the ending balances as at December 31, 2013 on the adjusted 2015 IRM DVA continuity schedule .

The Group 1 DVA balances included the adjustments for a refund of $1.5 million credit to all customers and a recovery of $3.3 million debit from non-RPP customers (net recovery of $1.8 million debit). These adjustments were made to rectify the double disposition that occurred in the 2014 IRM proceeding and the balances were subsequently approved for disposition on an interim basis in the 2015 IRM rate application proceeding. As a result, Essex Powerlines has recovered the net $1.8 million debit from its customers.

9-SEC-47

Please explain which findings contained in the Process and Controls Audit are relevant to errors that caused the "overpayment", and what processes and controls have subsequently been put in place to ensure a similar error does not occur again.

Response

Findings 1.1, 2.1, 2.2, 2.4 and 4.1, contained in the Process and Control Audit and summarized in Attachment 1-C are relevant to this matter. In order to address these findings and prevent future occurrences, EPLC has undertaken a rigorous Change Management Plan to update, improve and reinforce many of EPLC's existing processes, procedures and management controls across the organization. A summary of EPLC's timing of improvements and remediation plan are included as Attachment 1-C.

9-SEC-48

Please provide the total amount that would to be refunded/collected from each rate class, if the Board decides to the adjustment made to correct from the "overpayment" was impermissible.

Response

Please refer to IR2-Staff-1 b) above.

9.0-VECC-68

a) Please provide all responses to Board Staff interrogatories in all prior proceedings from 2012 onward which relate to the issue of the unsettled DVA issue.

b) Please provide any other related correspondence between EPLC and Board Staff (including emails) not on the public record regarding this issue.

c) Please provide the relevant extracts from the 2015 IRM proceeding (evidence, interrogatories and decision) with respect to this issue.

d) In a chronological fashion from 2012 onward, please provide the specific extracts in which EPLC explains to the Board the DVA error(s) and its proposal for recovery. Please provide the date and proceeding docket for each extract.

Response

a) Outside of EB-2017-0039, the only other Board Staff interrogatories from 2012 onward which relate to the unsettled DVA issue are from the 2015 IRM (EB-2014-0072). These responses are included as Attachment 1-D.

b) All correspondence between EPLC and Board Staff is on the public record between EB-2014-0072 and this proceeding (EB-2017-0039). Any other discussions/correspondence have been between EPLC and Board Audit Staff and is confidential and not relevant to this proceeding.

c) The following submissions are the relevant extracts from the 2015 IRM proceeding with respect to this issue.

- Board Staff Submission (December 15th, 2014, EB-2014-0072, EB-2014-0301)
- EPLC Reply Submission (January 19th, 2015, EB-2014-0072, EB-2014-0301)
- EPLC Reply Submission (March 6th, 2015, EB-2014-0072, EB-2014-0301)
- EPLC Notice of Motion (April 2nd, 2015, EB-2014-0072, EB-2011-0301)
- EPLC IR Response from Applicant (April 7th, 2015, EB-2014-0072, EB-2011-0301)
- Oral Hearing (April 14th, 2015, EB-2014-0072, EB-2011-0301)
- EPLC Argument in Chief (April 23rd, 2015, EB-2014-0072, EB-2011-0301)
- EPLC Reply Submission (May 7th, 2015, EB-2014-0072, Eb-2011-0301)
- Board Decision and Order (June 9th, 2015, EB-2014-0072, EB-2011-0301)

d) Please reference the extracts listed in c) above as well as EPLC's confidential OEB Audit Report for all relevant extracts related to this issue.

9.0-VECC-69

REF: 9-Staff-80

In response to 9-Staff-80 EPLC makes the following statement: *Both the 2015 and 2013 Confidential Audit Reports have been successfully closed, with the* ***exception of one item detailed in EPLC's initial application*** *and clarified below, with all matters having been fully resolved and mutually agreed upon by both EPLC and OEB Auditors*. *The sole item remaining,* ***as detailed*** *in Exhibit Section 9.1, is fully provided below……"* (Emphasis added)

a) We are unable to find any detailed description of the outstanding DVA issue within the initial application. Please provide a page reference to the discussion being referred to in the above quotation.

b) EPLC notes at 10.1.3 of its response to 9-Staff-80 that "[*T*]*he* [2017 or 2018] *application must include Group 1 DVA balances. Essex Powerlines should provide a statement in its application as to whether or not any adjustments were made. If it reports that adjustments have taken place, it must provide a separate section entitled "Adjustments to Deferral and Variance Accounts" in which it provides explanations for the nature and amounts of the adjustments and includes supporting documentation.* Please provide the reference in this application where EPLC has met the above requirement.

c) At page 272 of 9-Staff-80, beginning at line 26 EPLC appears to be quoting from a submission however there are no indicators of where the quote begins or ends. Please clarify.

Response

a) Please refer to Exhibit 9, section 9.1.

b) See answer to a) above.

c) The referenced submission is listed below through lines 27-31 on page 272 of 9-Staff-80.

9-VECC-70

EPLC produces the following statement: "[Board Staff] *Audit is of the view that Essex Powerlines did not fully comply with the filing requirements. Audit is therefore of the view that the adjustments should not be reflected in Essex Powerlines' DVA balances as of December 31, 2015.*"

a) Please clarify if and how EPLC met the spirit of the filing requirements which is to provide specific, full and clear prior to any disposition

b) Please clarify what Board statement(s) and what decision(s) are being relied upon for EPLC's position that it has been given approval for the course of action in took with respect to rectifying its accounting errors.

Response

a) EPLC's position is consistent with the its audit management response. The Audit Finding is based on the position that "Essex Powerlines made adjustments to account balances that had previously been approved for disposition on a final basis." (see 10.1.1). It goes on to note that the Board's 2015 Distribution Rate Filing Requirements provide that "no adjustments will be made to any DVA balances previously approved by the OEB on a final basis" (see 10.1.2). However, the OEB Filing Requirements go on to state that the Board may consider requests for such adjustments and support such requests by evidence (see 2015 Distribution Rate Filing Requirements, s. 3.2.3)(the "DRFR"). That is what happened in this case.

As part of Essex Powerlines' Responses to Board Staff Supplemental Questions (EB-2014-0072, "Essex Powerlines_IRR_continuity schedules_20150407.pdf"), Essex Powerlines' both fully disclosed and clearly articulated the nature of this error as one of three key findings (see Essex Powerlines responses in section 2i and 3).

Board staff commented upon these issues in its Reply Argument. Given the pass through nature of these market related charges and whereby the intent of Group 1 RSVAs are to keep both the LDC and the customer whole, Essex Powerlines made adjustments, which were fully disclosed and clearly articulated for review by Board staff and approved by the Board in a subsequent rate order, to correct the three key findings and keep customers whole.
This approach is consistent with the Board's obligation to hold a hearing on and ultimately fix a just and reasonable rate.

The Board's decision in the 2015 IRM Application did not explicitly refer to this issue. This is not unusual in that there are often several specific factual issues that are not discretely identified in OEB decisions. Further, in this case, the Board spent considerable time on a different adjustment (to address the errors in accounts 1588 and 1589). It is therefore reasonable to conclude that the Board did not raise specific concerns this particular issue.

However, Audit seems to be suggesting that Essex Powerlines' disclosure was non-compliant because the information was not "explained in a section of the application under a section titled 'Adjustments to Deferral and Variance Account'" in the DRFR. According to Audit, this is a mandatory requirement of the DRFR, and the consequences to Essex Powerlines of not providing its explanation in that section (as opposed to providing that explanation elsewhere in the record) is that there should be *a $1.8 million loss to the shareholder (and a corresponding $1.8 million windfall to customers)*.

This is an unreasonable position.

First, as indicated, this information was provided in the application process and was known by Board staff and the Board. As a result, if there was an error in the location of this information, it had no impact on the proceeding. Second, the DRFR is a non-binding guideline. As the Board has stated, "We also issue non-binding guidelines to assist those we regulate in preparing their applications for approvals. "The Board has never suggested that a technical failure to provide information in a particular section of those non-binding guidelines was subject to a massive shareholder punishment as proposed by Audit. In this regard, it is clear, that the Board does not have power to impose sanctions for failure to meet the requirements of a non-binding guideline.79 Yet that is what Audit is proposing here.

b) Consistent with EPLC's Argument in Chief (Filed April 4th, 2014 as part of EB-2014-0072), EPLC has demonstrated multiple scenarios for which it currently supported its position. This argument is further supported by recent Board decisions, including Kitchener-Wilmot Hydro Inc.'s Decision & Order dated April 5th, 2018 (EB-2017-0056) and a recent letter from the Board dated May 17th, 2018 which asked distributors to identify "…Adjustments to deferral and variance account balances that were previously disposed…".

9.0-VECC-71

REF: Attachment B – Board Staff Letter dated March 21, 2017

a) Please explain why the Second Report audit, which provides for the audited results of the Group 1 and Group 2 accounts (Staff Objective No. 2) cannot be provided publicly and in full.

b) Please provide a redacted version of the Second Report with explanations as to what subject matters are being redacted.

Response

a) In the 2015 IRM Application the Board considered whether an OEB Audit Report should be put on the public record. The Board found that audit reports "by their nature may be confidential" and ordered only that a relevant excerpt be added to the record. The remainder of the audit report was struck from the record (see: EB-2014-0072, EB-2014-0301, Transcript, April 14, 2015, at p. 13).

EPLC proposes the same treatment here. It therefore provided the relevant excerpts. The remainder of the audit report is not relevant to this proceeding.

b) See answer to part a) above.