EB-2019-0031

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sched. B, as amended (the "Act");

AND IN THE MATTER OF an Application by Energy+ Inc. under Section 78 of the Act for an order approving just and reasonable rates and other charges for electricity distribution to be effective January 1, 2019.

REPLY SUBMISSIONS OF
ENERGY+ INC.

December 20, 2019

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A. INTRODUCTION

1. On August 26, 2019, Energy+ Inc. ("Energy+") filed an incentive rate-setting mechanism ("IRM") application under Section 78 of the *Ontario Energy Board Act, 1998* (the "Act") seeking an order of the Ontario Energy Board (the "OEB" or "Board") approving just and reasonable rates and other charges for electricity distribution to be effective January 1, 2020 (the "Application"). The Board assigned file number EB-2019-0031 to the Application.

2. The Application included the request for approval of incremental capital funding as part of an Incremental Capital Module ("ICM") for an investment in a shared Operations Facility with Brantford Power Inc. ("BPI").

3. On October 4, 2019, the OEB issued Procedural Order No. 1 whereby the Board decided that the applications of BPI and Energy+ would be heard together as a combined hearing given the common issues related to the sharing of a new facility and in order to facilitate regulatory efficiency. The following parties were granted intervenor status in the combined proceeding:

    - Consumers Council of Canada ("CCC")
    - School Energy Coalition ("SEC")
    - Toyota Motor Manufacturing Canada Inc. ("TMMC")
    - Vulnerable Energy Consumers Coalition ("VECC")

4. On November 15, 2019, the OEB issued Procedural Order No. 2, whereby OEB Staff and intervenors were provided the opportunity to make written submissions on the Applications of Energy+ and BPI by December 6, 2019, with BPI and Energy+ provided the opportunity to file a written reply submission by December 20, 2019.

5. Energy+ is pleased to submit this written reply to the submissions of OEB Staff and SEC received on December 6, 2019, and of VECC and CCC received on December 9, 2019. This reply is organized in the same categories as provided in the OEB Staff submission:

    - Group 1 Deferral and Variance Accounts
    - Lost Revenues Adjustment Mechanism Variance Account ("LRAMVA")
    - New Deferral Account for Lost Revenues
    - Incremental Capital Module

- Gain on Sale of Paris Facility
- Large Use Class Fixed Charge
- Foregone Revenue

B. GROUP 1 DEFERRAL AND VARIANCE ACCOUNTS

6. Energy+ requested disposition of its December 31, 2018 Group 1 deferral and variance account ("DVA") balances of ($2,363,864). This amount represents the net balances as at December 31, 2018, plus carrying charges computed to December 31, 2019. The balances meet the $0.001/kWh threshold. Table 1: Summary of Group 1 DVA Request summarizes the balances of the accounts.

7. The last disposition of Group 1 account balances was included as part of Energy+'s 2019 Cost of Service Application, based on 2017 balances, which was approved on an interim basis.[1] The disposition on an interim basis was consistent with the Board's letter dated July 20, 2018 in which the Board determined that effective immediately the OEB will not approve Group 1 rate riders on a final basis pending the development of further guidance.

Table 1: Summary of Group 1 DVA Request

Account	Account Description	Principal	Interest	Total Claim
1550	LV Variance Account	(387,755)	(11,952)	(399,707)
1551	Smart Metering Entity Charge Variance Account	(34,615)	(1,168)	(35,784)
1580	RSVA - Wholesale Market Service Charge	(207,460)	(32,157)	(239,617)
1580	Variance WMS – Sub-account CBR Class B	(73,372)	1,897	(71,474)
1584	RSVA - Retail Transmission Network Charge	(333,112)	1,248	(331,864)
1586	RSVA - Retail Transmission Connection Charge	494,597	21,671	516,269
1588	RSVA - Power	(391,496)	(38,123)	(429,619)
1589	RSVA - Global Adjustment	(1,347,762)	(24,305)	(1,372,067)
Total		**(2,280,974)**	**(82,889)**	**(2,363,864)**

8. In 2019, Energy+ implemented the OEB's new accounting guidance for Accounts 1588 and 1589. The 2018 historical balances were reviewed in the context of the new guidance, and Energy+ included adjustments to the balances requested for disposition in the 2020 IRM Application. OEB Staff submitted that Energy+ adopted a reasonable approach to determining adjustments to 2018 balances related to the implementation of the accounting guidance for Accounts 1588 and 1589.

9. Energy+ indicated in the Application that it had not had a chance to review its 2017 balances based on the new accounting guidance and committed to providing the results of the review in its 2021

[1] EB-2018-0028

IRM Application.

10. OEB Staff agreed that the 2017 balances should not be disposed on a final basis until they are reviewed in the context of the new accounting guidance, and that the 2018 balances should only be disposed on an interim basis so that the continuity of any future changes will be appropriately captured.[2]

11. Energy+ submits that the Group 1 deferral and variance account balances of ($2,363,864) at December 31, 2018 should be approved for disposition on an interim basis.

C. LOST REVENUE ADJUSTMENT MECHANISM VARIANCE ACCOUNT

C.1 Introduction

12. Energy+ requested disposition of its December 31, 2018 LRAMVA balance of $762,915. The LRAM claim is for programs offered in 2018 and includes persistence of results from 2011 to 2017. The balance is based on service territory specific claims as a result of maintaining separate distribution rates in 2018 for each of the service territories until the 2019 Cost of Service rate year. In 2018, the lost revenue from Conservation and Demand Management ("CDM") programs in the Cambridge and North Dumfries ("CND") service territory was $539,527 including carrying charges. The Brant County ("BCP") service territory had lost revenues of $223,388 including carrying charges in 2018.

13. Table 2: LRAMVA Balance for Disposition summarizes Energy+'s disposition request.

Table 2: LRAMVA Balance for Disposition

Account Name	Account Number	Actual CDM Savings ($) A	Forecasted CDM Savings ($) B	Carrying Charges ($) C	Total Claim ($) D=(A-B)+C
LRAMVA – CND service territory	1568	$910,984	$388,004	$16,547	$539,527
LRAMVA – BCP service territory	1568	$231,647	$15,110	$6,851	$223,388
LRAMVA – Total	**1568**	**$1,142,631**	**$403,114**	**$23,398**	**$762,915**

[2] OEB Staff submissions, December 6, 2019, Pg. 2.

14. The 2018 lost revenue claim includes the persistence savings from streetlight upgrades in 2016 and a CHP project undertaken as part of the IESO's Process and Systems Upgrade Initiative in 2015. The methodology used for the streetlighting savings and CHP project are consistent with the methodology approved in Energy+'s 2019 Cost of Service proceeding.

15. OEB Staff supported the disposition of the LRAMVA debit balance of $762,915 as filed and submitted that Energy+'s LRAMVA balance has been calculated in accordance with the OEB's CDM Guidelines and OEB policy.[3]

16. Energy+ submits that the LRAMVA claim and balance of $762,915 should be approved for disposition.

C.2 No Service Territory Specific CDM Results

17. Energy+ maintained separate distribution rates for the CND and BCP service territories during the 2018 rate year. Without service territory specific CDM Results Reports available from the IESO, Energy+ allocated CDM savings into service territories and rate classes to determine the lost revenue amounts. Energy+ based the allocation of savings on project-specific data from its monthly submissions to the IESO. Where data was unavailable, relative consumption by service territory was utilized.

18. OEB Staff noted that the allocation of savings by rate class from 2011 to 2016 and their persistence into 2018, were consistent with Energy+'s approved LRAMVA filing in the 2019 Cost of Service Application.

19. OEB Staff submitted that the breakdown of 2017 and 2018 savings by service territory and rate classes, as well as persisting 2017 savings in 2018, are reasonable. OEB Staff also submitted that the adjustments made to 2018 balances reflect the adjustments to 2017 program savings identified in the 2019 Participation and Cost Report.[4]

C.3 LRAMVA Thresholds

20. Energy+ applied the LRAMVA thresholds approved for each of the former utilities as the basis to compare forecast savings against actual savings in each service area. OEB Staff submitted that Energy+ has correctly applied the LRAMVA thresholds for each service territory that were

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[3] OEB Staff submissions, December 6, 2019, Pg. 4.
[4] OEB Staff submissions, December 6, 2019, Pg. 5.

established in the former utilities Cost of Service proceedings.

21. Energy+ agrees with OEB Staff that there is no longer a need to file separate lost revenue claims by rate zone in future rate applications since Energy+ has been approved for a 2019 LRAMVA threshold in its 2019 Cost of Service proceeding.[5]

C.4 CHP Project

22. Energy+ included $174,340 from the CHP project as part of the LRAMVA claim. The conservation savings were determined by calculating the difference between the coincident peak of the generation and Energy+ supply from the peaks of the standalone Energy+ supply that were billed. The calculations were performed using 2018 meter data from Energy+'s supply and the customer's CHP generation. The approach is consistent with the methodology approved by the OEB in Energy+'s 2019 Cost of Service Application.

23. OEB Staff supports the disposition of lost revenues from the CHP project.[6]

24. OEB Staff confirmed the consistency of the methodology and submitted that Energy+ filed the hourly peak data for 2018 that was used to derive the highest peaks in the month and determine the baseline and actual load billed with the CHP project. The difference between the baseline and actual load in 2018 resulted in lost revenues to Energy+ due to the CHP project.

25. OEB Staff also confirmed that the net-to-gross assumption (of 1.001) used to convert gross savings to net savings is consistent with the IESO's 2017 program evaluation results and aligns with the value approved in its previous LRAMVA filing.

C.5 Streetlighting Project

26. Energy+ included $78,410 from the streetlight upgrades in Brant County as part of the LRAMVA claim. The 2018 persistence savings for the streetlight upgrades were approved in the 2019 Cost of Service application.

27. OEB Staff supports the disposition of lost revenues from the streetlighting upgrades.[7]

28. OEB Staff confirmed that the same data and methodology, which was included for approval with

[5] OEB Staff submissions, December 6, 2019, Pg. 5.
[6] OEB Staff submissions, December 6, 2019, Pg. 6.
[7] OEB Staff submissions, December 6, 2019, Pg. 7.

Energy+'s previous LRAMVA filing, has been used in this proceeding to support the 2018 persistence savings claimed.

D. NEW DEFERRAL ACCOUNT FOR LOST REVENUES

29. Energy+ requested approval for a new deferral and variance account to capture the loss of other revenue related to the Board's generic rate order eliminating "Collection of Account" charges for electricity distributors effective July 1, 2019, and based on the Board's Staff Bulletin dated August 8, 2019, which stated OEB Staff's view that using the Notification Charge, or any other approved specific service charge for the purpose of charging for activities related to collection of accounts would be inconsistent with the OEB's decision to eliminate Collection of Account Charges.

30. Energy+ proposes to calculate the lost revenue recorded in the account by applying the previously approved Notification Charge amount to the number of notices issued in each year. This approach reflects the true lost revenue from the elimination of the charge.

31. OEB Staff submitted that the proposed account meets the eligibility criteria of causation, materiality and prudence as specified in the OEB's Chapter 2 Filing Requirements for Electricity Distribution Rate Applications.[8]

D.1 Causation

32. The amount determined to be included in this new deferral account is outside of the base upon which rates were derived. In the 2019 Cost of Service Application (EB-2018-0028), Energy+ reached a Settlement Agreement on revenue requirement in early December 2018, which included the revenue offsets from specific service charges, including the Notification Charge. Energy+ received its Decision and Order in June 2019, which included the approval of the Settlement Agreement. The Settlement Agreement was reached prior to the Board's proposed amendments issued on December 18, 2018 and the subsequent amendment to the Distribution Licenses on March 14, 2019.

33. OEB Staff acknowledged that Energy+ would sustain lost revenues from the Notification Charge as a result of the timing of its 2019 approved settlement proposal and the OEB's proposal to eliminate charges related to collection of accounts.[9]

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[8] OEB Staff submissions, December 6, 2019, Pg. 7.
[9] OEB Staff submissions, December 6, 2019, Pg. 7.

D.2 Materiality

34. The annual lost revenue amount of $278,000, which results in a cumulative loss of $1,251,000 prior to the next rebasing, exceeds the materiality threshold of $175,000 established in the 2019 Cost of Service Application.

35. OEB Staff submitted that the amount of lost revenues to be recorded in the account would likely be material to Energy+.[10]

D.3 Prudence

36. Energy+ provides notifications to customers to ensure they are aware of the status of their unpaid account in advance of a potential disconnection. In Energy+'s experience, providing these notifications has proven to be the best method for contacting customers to ensure they avoid interruption to their service and maintain customer satisfaction. The costs of issuing such notices are included in Energy+'s operating expenditures.

37. In its Response to Interrogatories, Energy+ provided the amount of revenue collected from 2015 to 2018, which ranged from $257,415 to $411,075 annually.[11] OEB Staff noted concerns over the number of notices issued, and that the annual revenue from the charge has peaked to over $400,000. OEB Staff accepted that the amount of $278,000 is the amount that underpins current base rates. OEB Staff submitted that at the time the account is proposed for disposition, that Energy+ should provide evidence demonstrating prudence, including support for the number of notices issued.[12]

38. Energy+ appreciates OEB Staff's concerns regarding the possibility of Energy+ over collecting revenue based on the number of notices issued, however, Energy+ has some concerns with respect to placing a cap on the variance account in each year of $278,000. Energy+ submits that if the Notification Charge had been eliminated prior to the Settlement Agreement, the $278,000 would have been included in the base revenue requirement resulting in the entire amount recovered through distribution rates. Due to the year over year fluctuations in the number of notifications issued, capping the lost revenue in years that are above the revenue offset amount, does not afford Energy+ an opportunity to recover the costs incurred on the notices above and beyond what was estimated each year.

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[10] OEB Staff submissions, December 6, 2019, Pg. 8.
[11] Response to IR, E-Staff-63 (b), Pg. 96-97.
[12] OEB Staff submissions, December 6, 2019, Pg. 8.

39. As an alternative to OEB Staff's proposal, Energy+ believes it would be reasonable to implement a cumulative cap on the deferral account at an annual rate of $278,000 multiplied by the number of years until rebasing. This approach would prevent the lost revenue from exceeding the total revenue offsets for the IRM period and mitigates the effect of issuing fewer notices in any given year.

40. Energy+ submits that the criteria of causation, materiality and prudence have been met and that the request for a deferral account for Notification Charges should be approved.

E. INCREMENTAL CAPITAL MODULE

E.1 Introduction

41. Energy+ has requested approval for ICM funding for a proposed $3.48 million capital lease investment in a shared Operations Facility with BPI. This location will function as the Operations Centre to service customers in the Brant County Service territory. In 2020, as part of a long-term lease agreement with BPI, Energy+ will occupy approximately 15,679 sq. ft. of dedicated space at a facility purchased by BPI in 2019 that is located at 150 Savannah Oaks Drive, near Oak Park Road and Highway 403 ("Savannah Oaks") in Brantford, Ontario. BPI has purchased an existing facility which will undergo renovations prior to occupancy.

42. Energy+ currently serves two non-contiguous service territories: (i) Cambridge and North Dumfries service territory; and (ii) the Brant County service territory. The investment in the shared Operations Facility with BPI is part of an overall Facilities Plan that addresses the long-term facility needs of the utility to service the customers in both service territories. Energy+'s capital investment in the Southworks facility, located in the CND service territory, was approved as an Advanced Capital Module ("ACM") in Energy+'s 2019 Cost of Service Application.

43. As outlined in Energy+ and BPI's Applications, the concept of a shared facility is unique and provides an innovative approach to reducing costs (both operating and capital costs) in the future by sharing the costs for facilities and services.

44. For Energy+, the opportunity to share a facility with BPI is attractive for several reasons:

- The proposed location is ideal, central to Energy+'s Brant County service territory with good access to major arterial roads.

- The opportunity to share costs of the new construction.

- An immediate opportunity for shared services – inventory, warehousing, fueling stations, purchasing and stores, vehicle maintenance, tower and shared vehicles.

- The opportunity to right size the mix of administrative office requirements with adequate operational space to accommodate anticipated customer growth and renewal projects within the Brant County Service territory.

- Emergency Preparedness considerations – allowing both utilities to respond to emergencies in a more efficient and effective manner.

45. Energy+ submits that most of these benefits would not be possible or achievable for any of the other alternatives explored by Energy+.

46. OEB Staff supported Energy+'s request for ICM approval on the basis that the ICM criteria of materiality, need and prudence were met and that the ICM should be approved subject to revisions to the materiality calculations.[13] OEB Staff also agreed with Energy+ that the shared facility with BPI provides unique opportunities to reduce costs, and that it is reasonable to expect synergies through a shared facility, which gives it advantages over a standalone facility for Energy+.[14]

47. VECC also acknowledged in their submission that a shared facility is an innovative approach to reduce costs by sharing facilities and services.[15]

48. Each of SEC, VECC and CCC submitted that the OEB should not approve Energy+'s ICM request on the basis that for regulatory purposes lease costs are not an eligible capital expense. SEC provided additional submissions on the ICM criteria for Energy+ in the event that the Board wishes to consider ICM treatment.[16] SEC recognized that a new facility is needed for Energy+, but submitted that Energy+ had not met its onus to demonstrate prudence.[17] VECC and SEC relied on SEC's submissions with respect to the ICM treatment.

49. Energy+ and BPI have worked collaboratively and have shared resources over the past few years to develop a shared facilities solution that is cost effective and meets the needs of its customers. One of the governing principles in the Memorandum of Understanding between Energy+ and BPI

[13] OEB Staff submissions, December 6, 2019, Pg. 9.
[14] Ibid, Pg. 17.
[15] VECC submissions, December 6, 2019, Pg. 7.
[16] SEC submissions, December 6, 2019, Pg. 4
[17] Ibid, Pg. 6.

is customer benefits, i.e. that the customer will be no worse than would have been the case if either party proceeded with the obtaining, operation, and maintenance of their own, single use building.[18] This principle has been at the forefront of all discussions between Energy+ and BPI.

50. Energy+ is genuinely surprised and disappointed by the position taken by SEC and intervenors with respect to the prudence of the shared facility as it relates to Energy+.

51. As noted above, Energy+ and BPI have worked collaboratively together over the past few years to identify the most cost-effective shared facilities solution that meets the needs of both utilities' customers. In this context, it is difficult for Energy+ to understand how parties can support BPI's facility as a prudent investment for BPI but not support Energy+, who worked directly with BPI to ensure the prudency of the exact same combined facility.

52. Energy+ will address the submissions of each of the parties with respect to each of the ICM criteria (materiality, need, and prudence), the proposed accounting treatment, in-service dates, and lease savings.

E.2 Materiality

53. Energy+'s request for ICM of $3,482,492 is within the revised maximum eligible incremental capital amount of $9,534,428.

54. Revisions to the materiality calculations were provided by OEB Staff since the ICM application as originally filed used a price cap index of 1.2% as a place holder, since the price cap index for 2020 was not yet available. With the published 2020 price cap index of 1.7% available, the materiality threshold is $7,528,202, compared to $6,155,872 as originally filed.

55. OEB Staff reduced Energy+'s 2020 capital forecast of $17,976,000 to capture the reduction to the estimate for the capital lease investment to arrive at a revised 2020 forecast of $17,062,630. Using the revised forecast, the maximum eligible incremental capital amount available to Energy+ through this ICM for 2020 rates is $9,534,428, compared to $9,634,428 as originally filed.

56. OEB Staff agreed with Energy+ that the materiality criterion is satisfied.

57. The project-specific materiality threshold was also evaluated, and OEB Staff noted that the capital requested for the new facility is 21% of Energy+'s total 2020 capital budget. OEB Staff submitted

[18] EB-2019-0031, Appendix F, Exhibit II, Memorandum of Understanding, May 15, 2019, Pg. 2.

that this project represents a significant capital expenditure for Energy+ and therefore satisfies the project-specific materiality threshold.[19]

58. SEC noted that it is unable to make any submission on whether any capital spending on this project appropriately exceeds the ICM threshold. SEC stated that depending on the proportion of the capitalized value of the lease that is considered prudent, the project may meet or exceed the project materiality criterion.

59. Energy+ does not agree with the submission of SEC. Energy+ has evaluated the MOU between Energy+ and BPI, in consultation with its auditor, and classified the components of the contract between OM&A and capital.[20] The determination of prudency for the investment will not result in any increases to the amount requested for incremental capital recovery of $3.48 million, and will not cause the project materiality criteria to be exceeded.

60. VECC and CCC did not provide submissions on materiality and relied on the submission of SEC.

61. Energy+ submits that the Board should find that the proposed $3.48 million investment in the shared Operations Facility with BPI meets the materiality criterion for ICM funding.[21]

E.3 Need

62. Energy+'s ICM request represents a discrete project and is outside of the base upon which rates were derived.[22] The shared facility with BPI was not included in Energy+'s rate base at the time of last rebasing in 2019. The facility was initially included as part of an ACM request, however, the request was ultimately withdrawn as part of the Settlement Agreement[23]. In addition, the amounts requested for ICM treatment relate strictly to costs associated with Energy+'s allocated exclusive space in the new 150 Savannah Oaks facility.

63. Energy+ submits that it has demonstrated that it has met the Means test. Energy+'s regulated return on equity did not exceed 300 basis points above the deemed ROE embedded in its rates for the years 2015-2018, and for 2019 Energy+ is not forecasting to exceed its deemed ROE for 2019.

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[19] OEB Staff submissions, December 6, 2019, Pg. 13.
[20] Response to IR, E-Staff-57 a), Pg. 75.
[21] OEB Staff submissions, December 6, 2019, Pg. 13.
[22] OEB Staff submissions, December 6, 2019, Pg. 14.
[23] EB-2018-0028, Decision and Order, June 13, 2019, Settlement Proposal, Pg. 17.

64. OEB Staff[24] and SEC[25] agreed that Energy+ has met the need criterion. VECC and CCC relied on the submissions of SEC.

65. Energy+ submits that the Board should find that the proposed shared Operations Facility with BPI meets the Need criterion for ICM funding.

E.4 Prudence

66. OEB Staff submitted that the amounts requested by Energy+ for its dedicated space at the new shared operations centre at the 150 Savannah Oaks facility are prudent.[26]

67. In arriving at this conclusion, OEB Staff examined the evidence of Energy+'s business case as well as Energy+'s efforts to benchmark its plan against known comparators to ensure the prudence of its plan. In reviewing the evidence, OEB Staff noted that:

- Given the 30-35 minute estimated travel times between the two operations centres it is prudent and necessary to maintain an operations centre in Brant County
- Customers would likely experience longer response times from Energy+'s operations crews if there is not an operations centre in Brant County.[27]
- A shared facility with BPI provides unique opportunities to reduce costs and it is reasonable to expect synergies through a shared facility.
- Energy+'s allocated space and incurred costs are reasonable and in line with similar facilities projects undertaken by other electricity distributors. Based on OEB Staff's methodology of netting the gain on sale of the Paris property with the capital cost (please refer to Section F with respect to the gain on sale of the Paris property):

    a. Energy+'s capital cost per gross square foot of $195.84 is the second lowest of the comparators.

    b. Energy+'s square feet per employee of 1,206 is in the middle of comparators that were administration and operations facilities

[24] Ibid, Pg. 14.
[25] SEC submissions, December 6, 2019, Pg. 4.
[26] OEB Staff submissions, December 6, 2019, Pg. 18.
[27] Ibid, Pg. 15.

68. In its submission, OEB Staff commented that Energy+ should have further explored the option of acquiring or leasing a new standalone facility.

69. SEC submitted that Energy+'s option analysis was insufficient, particularly with respect to the analysis of acquiring or leasing its own facilities, having relied on the third party work of BPI and stated that it was not clear what the relevance of the BPI site review would be for Energy+.[28]

70. VECC relied on the SEC Submission and did not provide any specific comments with respect to Prudence.

71. CCC submitted that the issue of prudence with respect to the arrangement with BPI should be dealt with at Energy+'s next rebasing application.

72. The ICM policy was established to enable the review of funding requests for discrete projects that are planned to come into service during the IR period. Deciding on the prudence of the investment at Energy+'s next rebasing application goes against the intent of the policy and would result in retrying the facts of the business case for a third time.

73. Energy+ will address the submissions on the Options Analysis and Benchmarking in the following sections.

E.4.1 Benchmarking

74. The OEB Staff and intervenors submissions contained different adjustments for benchmarking that create challenges when performing a comparison. The adjustments identified in the submissions included:

- OEB Staff's proposal to reduce the cost of the 150 Savannah Oaks facility by the amount of the gain on sale being returned to customers for benchmarking purposes.[29]

- OEB Staff's opinion on the appropriateness of evaluating the 150 Savannah Oaks facility independently of Energy+'s overall facilities plan. OEB Staff noted that the need for the facility for the Brant service territory is independent of the needs in the CND territory and should be evaluated on its own merits.

- SEC's suggestion that a more accurate view of Energy+'s proposed costs for the shared

[28] SEC submissions, December 6, 2019, Pg. 5.
[29] OEB Staff submissions, December 6, 2019, Pg. 17.

facility with BPI is to look at the full costs that will be allocated to Energy+, including the shared and common spaces that are not subject to the ICM request.

75. Energy+ supports the analysis used by OEB Staff for benchmarking, which subtracts the gain on sale of the Dundas St. facility from the capital cost for the shared facility to reflect the true net cost to customers. Energy+ submits that this is consistent with the approach proposed by Energy+ to dispose of the gain on sale rate rider over the period until next rebasing and to mitigate the impact of the incremental costs of the ICM.

76. Table 3: Facilities Benchmarking has been prepared to ensure a consistent approach is utilized. The benchmarks below apply a $430,230 reduction related to the portion of the gain on sale (please refer to Section F with respect to the computation of the gain).

Table 3: Facilities Benchmarking

LDC	Energy+ (Savannah Oaks)	Energy+ (Southworks)	Energy+ (Southworks & Savannah Oaks)	Energy+ (Bishop St.)	Energy+ (Combined)
Year of Occupancy	2020	2022	Various	2024	Various
Functions	Operations	Administration	Administration & Operations	Operations	Administration & Operations
Type of Project	Refurbish	Purchase/ Refurbish	Purchase/ Refurbish	Refurbish	Purchase/ Refurbish
Capital Cost	$3,482,000	$8,100,000	$11,582,000	$2,000,000	$13,582,000
Gain on Sale	-$430,230	$0	-$430,230	$0	-$430,230
Net Capital Cost	$3,051,770	$8,100,000	$11,151,770	$2,000,000	$13,151,770
Net Capital Cost (Inflation Adj.)	$3,051,770	$8,100,000	$11,151,770	$2,000,000	$13,151,770
Square Footage	15,679	21,892	$37,571	53,100	$90,671
FTEs	13	67	80	51	131
Square Foot per FTE	1,206	327	470	1,041	692
Net Capital Cost per FTE	$267,846	$120,896	$139,397	$39,216	$103,679
Net Capital Cost/Square Foot	$194.64	$370.00	$296.82	$37.66	$145.05
Net Capital Cost (Inflation Adj.) / Square Foot	$194.64	$370.00	$296.82	$37.66	$145.05

LDC	Milton Hydro Distribution Inc	Brantford Power Inc.	PUC Distribution Inc.	Enersource	Waterloo North Hydro Inc	InnPower	PowerStream
Year of Occupancy	2015	2020	2011	2012	2011	2015	2008
Functions	Administration & Operations	Administration & Operations	Administration & Operations	Administration	Administration & Operations	Administration & Operations	Administration
Type of Project	Purchase/ Refurbish	Purchase/ Refurbish	Custom Build	Purchase/ Refurbish	Custom Build	Custom Build	New Build
Capital Cost	$12,557,798	$14,378,438	$22,916,497	$18,000,000	$25,882,961	$10,896,704	$27,700,000
Gain on Sale							
Net Capital Cost	$12,557,798	$14,378,438	$22,916,497	$18,000,000	$25,882,961	$10,896,704	$27,700,000
Net Capital Cost (Inflation Adj.)	$13,688,635	$14,378,438	$25,811,280	$20,598,117	$30,211,282	$11,877,959	$33,178,279
Square Footage	91,828	71,539	110,382	79,000	105,000	36,172	92,000
FTEs	61.5	63.3	87	150	125	41	250
Square Foot per FTE	1,493	1,130	1,269	527	840	882	368
Net Capital Cost per FTE	$204,192	$227,148	$263,408	$120,000	$207,064	$265,773	$110,800
Net Capital Cost/Square Foot	$136.75	$200.99	$207.61	$227.85	$246.50	$301.25	$301.09
Net Capital Cost (Inflation Adj.) / Square Foot	$149.07	$200.99	$233.84	$260.74	$287.73	$328.37	$360.63

<u>Notes:</u>

- Comparator figures are based on the benchmark's provided in BPI's application and SEC's reply submission.
- A combined benchmark for Energy+'s Savannah Oaks and Southworks facility has been provided to present the cumulative impact of ACM/ICM requests

77. Based on the benchmarks in Table 3, the Savannah Oaks facility is the second lowest in terms of net capital cost per square foot relative to the comparators. The inflation used for the comparators was based on the OEB's IRM inflation factor, which Energy+ notes is understated relative to the construction industry inflation indexes.

78. Although Energy+ does not agree with SEC's suggestion of benchmarking the total costs allocated to Energy+ for the Savannah Oaks facility (exclusive space plus shared/common space costs), the resulting cost per square foot of $268 (($8,352,000 - $430,230) / 29,558 sq. ft.), would result in a benchmark near the midpoint of the comparators.

79. Energy+ understands the need to evaluate the shared facility with BPI on its own merits, however, Energy+ also believes it is important for the Board to recognize Energy+'s overall Facilities Plan. Energy+ has taken an approach to its Facilities Plan that results in an overall capital expenditure plan for the replacement and upgrading of its entire facilities. Had Energy+ sought to build a brand-new administration and operations centre, as was originally considered, the estimated cost would have been approximately $32MM as outlined in Energy+'s Facilities Plan (based on estimates developed in 2014).

80. Energy+'s overall Facilities Plan results in a total capital cost of $13,151,770 to address the needs of two geographically distinct service territories. This plan is second lowest in terms of total cost relative to the comparators and is the lowest or second lowest in the other benchmark metrics. These benchmarks support Energy+'s position that it is effectively managing its facilities plan and mitigating the overall costs for its customers. Energy+ notes that the $13,151,770 and the related benchmark is based on the estimated costs of the facilities plan and does not take into consideration the reduction of $1.6MM to the Southworks ACM request as approved by the Board.

81. The cost of the overall facilities plan is particularly relevant in the context of SEC's submission, where it was suggested that due to Energy+'s overall facilities plan, "Energy+'s customers appear to be paying more and more for facilities" and that "the overall cost per square foot is likely to be well above the inflation-adjusted average of the combined administration/operations comparators." Energy+ submits that SEC's comments have no basis and are not supported by the benchmarking evidence on the record.

82. SEC also questioned whether the shared facilities investment was prudent considering that the service territory is currently staffed by 13 operations employees.

83. As explained in the Application, maintaining an Operations Centre in the Brant service territory is necessary to provide customers in Brant County with adequate service due to the travel time between Cambridge and Brant County. The Brant Service territory is also undergoing significant growth that is expected to continue. In addition to growth, Energy+'s long-term Distribution System Capital Plan incorporates an overall increase in the renewal of aging distribution assets within the service territory. Energy+ submits that the investment in the Brant County service territory Operations Centre is required to support its current needs but will also address the future anticipated demands. This need is not appropriately measured based on the number of FTEs.

84. Energy+ submits that the benchmarking for the Brant County Operations Facility support the prudence of the investment.

E.4.2 Options Analysis

85. BPI and Energy+ worked cooperatively to assess numerous different options in connection with the shared facility.

86. In addition, other options considered by Energy+ for the Brant County service territory were: (i) renovate or rebuild the existing Dundas St. facility; (ii) lease space/ co-locate with BPI; and (iii) acquire/lease new space in the Brant service territory.

87. OEB Staff agreed that the option of rebuilding or renovating the existing Paris facility would be prohibitively expensive in comparison to the other options.[30]

88. Energy+'s and BPI's management teams worked directly together assessing the alternatives and worked collaboratively to find the least cost option in a strategically viable location. Energy+ submits that further analyzing the option of acquiring or leasing a new facility would have resulted in undue incremental costs that would have otherwise reduced the level of service that Energy+ was able to provide to its customers.

89. Energy+ notes that OEB Staff did not provide any evidence or basis to support their opinion that the proxy of $6.77 million is not an accurate estimate of the true cost of new build properties currently available on the market in Brantford. This is an unsupported assumption made by OEB Staff.

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[30] OEB Staff submissions, December 6, 2019, Pg. 16.

90. The proxy used by Energy+ in evaluating the option of acquiring or leasing its own facility was based on actual costs of land and estimates of building construction costs that BPI received for its initially proposed Garden Avenue facility. Energy+ believes that this proxy is relevant and appropriate. Energy+ worked collaboratively with BPI and its design consultant. The cost estimate was derived from the specific space needs analysis prepared for Energy+ based on the requirements to support its operations for the Brant County service territory. The estimated costs for Energy+ to acquire or lease a similar facility would be based on the same or similar market conditions.

91. BPI was unsuccessful in securing a contractor at this cost $6.77 million estimate, which suggests that if anything the proxy is understated relative to the construction market.

92. Energy+ disagrees with SEC that the third-party work completed by BPI with respect to a site location in the City of Brantford is not relevant to Energy+. As noted in its Application, Energy+ expects customer growth in the City of Brantford in future years. As a result of the annexation of the municipal boundaries between the County of Brant and the City of Brantford, the future growth is expected in Energy+'s service territory. The Savannah Oaks Drive facility is approximately 5km from the current facility on Dundas St. The new location will have minimal operational impact and will enable Energy+ to service the anticipated growth, as well as service the existing customer base in the Brant Service territory.

93. OEB Staff and SEC's submissions also did not address the impact of potential synergies and efficiencies from the shared facilities, relative to the cost of options. OEB Staff noted that BPI provided an estimate of $150,000 in annual FTE savings to both BPI and Energy+ through resource sharing. The net present value of those savings over the 40-year lease term, discounted at Energy+'s regulated return of 6.15%, is $2.2 million. Energy+ submits that none of the other options explored would provide this financial benefit to Energy+ customers. This amount also does not include any potential supply chain or inventory management efficiencies, as they have yet to be determined.

94. Energy+ submits that its options analysis with respect to the Brant County Operations Facility was appropriate.

E.5 Accounting

95. Energy+ has computed the net present value of the lease payments using the discount rate implicit in the lease rates of 7.25%, which was calculated off of BPI's weighted average cost of capital

("WACC"). Energy+ notes that the WACC approved for Energy+ is 6.15%.[31] As such, Energy+ submits that SEC's concern that Energy+ is being overcompensated for cost of capital is incorrect. The opposite is the case, because the Energy+ WACC is actually lower than the discount rate that was used to compute the net present value of lease payments. There is no risk of overcompensation.

96. SEC also expressed concerns that the accounting treatment may result in an over collecting from customers by way of a difference in tax treatments.

97. Energy+ submits that the tax implications of the lease are no different from the timing differences between depreciation and CCA for a fixed asset. For tax purposes the entire lease payment is tax deductible, and for accounting purposes amortization and financing charges are deductions to income.

98. In Response to Interrogatories, Energy+ has amended the ICM model to adjust for these tax timing differences and calculated the PILs impact for purposes of the requested revenue requirement. [32] That is to say, Energy+ has already made changes to address SEC's concern about differences in tax treatments. In future Cost of Service applications, Energy+ acknowledges that these adjustments will also need to be addressed in the Revenue Requirement Work Form.

99. Energy+ has incorporated the costs associated with Energy+'s exclusive space of the shared facilities as a capital expenditure based on an evaluation of the accounting standards related to leases, including Article 425 (Accounting for Specific Items – Leases), which is based on the current IAS 17 Standard that incorporates lease accounting, and IFRS 16 Standard for Leases, which was effective January 1, 2019. Currently the Accounting Procedures Handbook ("APH") does not specifically address the new IFRS Standard for Leases, however, as indicated in the APH, "the Board generally requires regulatory filing and reporting under IFRS, as modified for regulatory purposes by the Board".

100. As noted by OEB Staff, Energy+ is treating the lease with respect to the dedicated space as a Finance lease under IFRS 16 and would recognize a right of use asset (i.e. capital asset to be included in rate base). As noted previously, OEB Staff supports the ICM treatment.

101. SEC, VECC and CCC submitted that the entire lease should be treated as an OM&A expense for regulatory purposes and the right-of-use asset should not be recoverable through an ICM. In its

[31] Application, Appendix F Exhibit V – Calculation of Lease Rates.
[32] Response to Interrogatory, E-Staff-60, Pg. 84.

submission, SEC stated:

> "Energy+ is seeking to include a capitalized calculation of future lease payments under its lease with BPI for use of the Savannah Oak Facility as an ICM. While it appears Energy+ may capitalize a portion of the lease under accounting rules that does not mean that it should be allowed to do so for regulatory purposes."[33]

102. Energy+ does not agree. Although the APH does not address the new IFRS 16 Standard for Leases, it does address lease accounting under IAS 17 which provides for a consistent accounting treatment for this type of investment. The APH also indicates that the Board generally requires regulatory filing and reporting under IFRS, as modified for regulatory purposes by the Board.

103. The primary change in the accounting standard with respect to Leases is that operating leases no longer exist under IFRS 16 and all leases are recognized as assets and brought onto the balance sheet.

104. The change in accounting standard from IAS 17 to IFRS 16 would not impact how Energy+ would account for the lease of the exclusive space in the shared facility with BPI. Under IAS 17, the lease would have been classified as a finance lease as per APH Article 425 as the lease meets the criteria that the lease term is for the major part of the economic life of the asset, even if title is not transferred.[34] The article states that the presence of any one indicator would point to the classification as a finance lease.

105. With respect to SEC's assertion that Energy+ should not be allowed to capitalize the lease for regulatory purposes, Energy+ would highlight APH Article 425 that provides that finance leases will be given consideration for inclusion in rate base. Specifically, the article states:

> "Under a finance lease: A "finance" lease is essentially similar to a "capital" lease under previous Canadian GGAAP. Accordingly, a finance lease will be given ratemaking consideration for inclusion in rate base."[35]

106. The article also outlines how the leased asset amount is established:

> "At the commencement of the lease term, the leased asset and the lease liability are

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[33] SEC submissions, December 6, 2019, Pg. 1.
[34] APH – Article 425, Pg. 5.
[35] APH – Article 425, Pg. 8.

recognized at the lower of the fair value of the leased asset at inception of the lease; or the present value of the minimum lease payments at the inception of the lease."[36]

107. The calculation of the right-of-use asset under IFRS 16 follows the same methodology. As SEC noted, Energy+ has calculated the right-of-use assets based on the present value of future lease payments. This amount is lower than the fair value of the leased asset BPI has allocated to Energy+. OEB Staff noted this difference in their submission and identified that there is no overlap in the recoveries claimed between Energy+ and BPI.

108. SEC expressed concerns that the net present value of future payments is not a cash investment on which the regulated entity will incur costs of capital and PILs. SEC noted that this approach will earn a rate of return when no capital expenditure is incurred, and there is nothing to finance and no cost of capital.

109. Energy+ does not agree. The form of the investment may differ from a traditional capital expenditure, however the financial impact to Energy+ remains the same. Had Energy+ provided a capital contribution to BPI, or undertaken its own leasehold improvements, the financial impact would be the recognition of a capital asset for rate making purposes and the computation of a revenue requirement that includes depreciation, interest expense, and PILs.

110. Energy+ and BPI opted to proceed with the lease approach to realize efficiencies in project management and design, as well as simplifying the acquisition of the property. The cost of capital required for the lease investment is implicit in the lease rates.

111. Treating the lease payments for the exclusive space of the shared facility with BPI as OM&A for revenue requirement purposes would have an adverse ROE impact to Energy+. Energy+ is already absorbing the incremental OM&A related to the shared/common space of the shared facility with BPI until its next rebasing. Assuming a rebasing in 2024, $2.5 million in cumulative costs would be funded outside of rates if both the exclusive and shared/common space were treated as OM&A. Energy+'s approved 2019 ROE was $6,243,805, or 8.98%. If the entire lease with BPI was treated as OM&A Energy+'s ROE would be $5,616,028, or 8.08%.

112. OEB Staff submitted that if Energy+ chooses to amend or terminate its lease at any point in the future, that Energy+ should make any such changes explicitly known to the OEB in future

[36] APH – Article 425, Pg. 7.

proceedings.

113. Energy+ submits that its proposed accounting and regulatory treatment as a capital expenditure eligible for ICM is appropriate. Energy+ agrees with OEB Staff that if Energy+ chooses to amend or terminate its lease at any point in the future that such changes should be made explicitly known to the OEB in future proceedings.[37]

E.6 In-Service Date

114. Energy+ has requested the implementation of the ICM rate rider as of January 1, 2020 and has computed the rider based on the annual revenue requirement consistent with the Chapter 3 Filing Requirements and in accordance with the OEB's ICM policy.

115. OEB Staff did not propose any adjustments to the proposed implementation date for the ICM rate riders.

116. SEC submitted that the effective date for the ICM rate riders of January 1, 2020 may not be appropriate in this case since the expected move-in date for Energy+ is expected to be in October 2020. SEC proposed that the Board implement any approved ICM rate rider effective October 2020. The rate rider under SEC's proposal would be calculated on an annual basis but would only begin to be charged to customers when the asset becomes used and useful.[38]

117. Energy+ submits that the ICM request is consistent with the Chapter 3 Filing Requirements and the OEB's ICM Policy which do not contain provisions to adjust the effective date for the ICM rate riders based on the in-service date of the asset.

118. If the Board decides to defer the effective date of the ICM rate riders, Energy+ submits that it would be appropriate to defer the disposition of the gain on sale rate rider as well (to ensure the benefits from the gain actually help to offset the costs from the ICM).

E.7 Lease Savings

119. SEC requested that Energy+ confirm whether lease payments for the existing property servicing the Brant County service territory were included in its approved OM&A for 2020, and to identify the amounts, if applicable in its reply submission. SEC submitted that any approved ICM rate rider should be reduced to account for these amounts to ensure customers are not paying twice for

[37] OEB Staff submissions, December 6, 2019, Pg. 19.
[38] SEC submissions, December 6, 2019, Pg. 6.

property to service Brant County.[39]

120. In June 2019, as part of the Decision and Order on Energy+'s 2019 Cost of Service Application, the Board approved the Settlement Agreement between the parties, which included the withdrawal of the ACM request in 2020 with respect to the shared facility with BPI and a full settlement on OM&A expenditures.

121. The annual lease payments for the Dundas St. facility are approximately $48,000. This is significantly less than Energy+ materiality threshold of $175,000.

122. As outlined in the Application, Energy+'s ICM request includes only the capital costs associated with space that has been allocated for Energy+'s exclusive use. Energy+ and BPI will enter into a Shared Service Agreement with BPI for the shared space and shared services. The costs associated with the Shared Service Agreement will be treated as operating expenditures, which are not currently included in Energy+'s approved OM&A expenditures. The annual incremental OM&A expenditures, over and above the current lease payment for the Dundas St. facility, will be borne by Energy+'s shareholders until its next rebasing.

123. Energy+ disagrees with SEC that any approved ICM rate rider should be reduced by the lease savings from the Dundas St. facility as customers are not paying twice for property to service the customers in the Brant service territory.

F. GAIN ON SALE OF PARIS FACILITY

124. Energy+ sold its operations facility located in Paris, Ontario in 2018. Energy+ sold the facility for $1.5 million and calculated a total gain on sale of $402,807. Energy+ proposed to return 100% of the net gain to customers in the amount of $411,861, which includes $9,053 in projected interest from January 1, 2019 to December 31, 2019.[40]

125. The gain on sale was calculated by Energy+ by netting the sale price of $1.5 million against the transaction costs, which included the fair value increase paid by the former Cambridge and North Dumfries Hydro Inc. based on a market valuation report, and the remaining regulatory net book value of the facility, and the estimated taxes on the gain.

126. OEB Staff does not agree with Energy+ that it is appropriate to deduct a "fair value increase" from

[39] SEC submission, December 6, 2019, Pg. 7.
[40] EB-2019-0031, IRM Application, Pg. 61.

the gain on sale proposed to be refunded to customers. The "fair value increase" represents an amount paid above the regulatory book value of the asset, which in OEB Staff's view is an acquisition premium. OEB Staff submitted that no portion of the "fair value increase" should be included in the gain on sale calculations. SEC submitted that an adjustment to the gain on the sale is an indirect method for Energy+ to recover part of the premium it paid for Brant County Power.

127. OEB Staff acknowledged that Energy+ proposed to refund the entirety of the adjusted gain on sale to customers and did not propose a sharing of the gain.

128. OEB submitted that it would be more appropriate to allow Energy+ to share a portion of the total gain on sale (without the "fair value increase" deduction). OEB Staff referenced a number of prior Board Decisions involving the disposition of property as precedents for sharing capital gains including: (i) Innisfil Hydro Distribution Systems Limited ("Innisfil") (EB-2014-0086), (ii) Toronto Hydro-Electric System Limited ("THESL") (EB-2009-0139), (iii) Guelph Electric Systems Inc. ("Guelph") (EB-2007-0742); and (iv) Waterloo North Hydro Inc. ("WNH") (EB-2010-0144).

129. Energy+ would also reference *"The Report of the Board: 2006 Electricity Distribution Rate Handbook"* (RP-2004-0188) which provides the following guidance when proceeds of sale exceed the materiality threshold:

> "The Board will generally expect that any capital gains or losses on the transfer of utility assets should be shared 50 / 50 between ratepayers and utility shareholders. However, each rate panel will need to determine if there are circumstances that justify a different treatment."[41]

130. Energy+ computed a materiality level of $175,000 in its 2019 Cost of Service Application. Energy+ submits that the gain on sale exceeds this materiality threshold.

131. The Board's Decision in Guelph's 2008 IRM Application noted that "consistent with Board policy and practice, the net gains from the sale are to be equally shared between the shareholder and ratepayers." [42]

[41] RP-2004-0188, May 11, 2005, Pg. 27.
[42] EB-2007-0742, Decision, July 31, 2008, Pg. 6.

132. In the case of Innisfil, the Board accepted a Settlement Proposal whereby the parties agreed to a 75 / 25 share (Customer/Utility). The split in the Settlement Proposal was arrived at by taking the midpoint of the Guelph and THESL decisions. In its Decision, the OEB noted that the acceptance of the 75/25 allocation should not be viewed as precedent.[43]

133. Energy+ also notes that the 75/25 share in the case of WNH was also an approved Settlement Agreement.

134. The THESL decision was a unique circumstance where the Board justified a different treatment from the 50 / 50 sharing with customers. In THESL's 2008 Cost of Service Application (EB-2007-0680), the Board identified a property sold in 2006 where the gain was retained entirely by THESL. The Board determined that directing THESL to share these gains would be out of period ratemaking. THESL also submitted a Facilities Consolidation and Renewal Plan estimated at $105 million that was found to be a substantial cost to customers. The plan included the sale of existing properties whose functions were still useful would be transferred or replaced by other facilities. The OEB found that 100% of the net after tax gains from the sale of the properties should go to the customers to defray the substantial costs.

135. Energy+ submits that although the gain on sale of the Paris property was in 2018, and not dissimilar to THESL case could have been considered outside of ratemaking, Energy+ did in fact propose to give back the gain to customers (net of the transaction costs, including the fair value adjustment paid by the former CND). In addition, Energy+ specifically noted in its proposal for disposition that the gain on sale rate rider was aligned with the period of the ICM rate rider and will help to mitigate the incremental revenue and associated bill impacts to customers related to the investment in the shared facility with BPI.

136. Table 4: Adjusted Computation of Gain on Sale of Property provides a revised computation of the total gain on sale that excludes the deduction for the "fair value increase paid" and adjusts the related tax computation.

[43] EB-2014-0086, Decision and Rate Order, December 4, 2014, Pg. 8.

Table 4: Adjusted Computation of Gain on Sale of Property

Computation of Gain on Sale of Property				
Proceeds from Sale of Property			$	1,500,000
Less: Transaction Costs				
Realtor and Legal Fees				(43,050)
Net Proceeds				1,456,950
	Original Cost	**Acc. Amort.**		**NBV**
Regulatory Net book value, as at April 3, 2018				
Land	87,795	-		87,795
Building	550,700	253,271		297,429
Total	638,495	253,271		385,224
Gain on Sale of Property			$	1,071,726
Estimate of Total Tax Cost on Sale				(211,266)
Net Gain on Sale of Property			$	860,460

137. Energy+ submits that a 50 / 50 share on the total gain on sale, as recompiled in Table 4, is appropriate. The revised amount to be shared with customers is $430,230 plus interest, compared to the amount originally computed by Energy+ of $402,807 plus interest.

138. In the event that the Board denies Energy+'s request for an ICM with respect to the shared facilities with BPI, Energy+ submits that it would be inappropriate to dispose of the gain on sale of the Paris facility to customers as the rate rider was intended to help mitigate the costs to customers by offsetting the ICM rate rider.

G. LARGE USE CLASS FIXED CHARGE

139. Energy+ proposed changes to its distribution rates, including the fixed charge for the Large User class, based on the IRM price cap adjustment in accordance with the OEB's IRM methodology. The IRM price cap adjustment is a mechanistic adjustment that is applied to distribution rates (fixed and variable) across all rate classes.

140. Toyota Motor Manufacturing Canada Inc. ("TMMC"), an intervenor in this proceeding, submitted interrogatories regarding the fixed charge of the Large Use class, and specifically with respect to the application of the IRM price cap adjustment to the fixed rate. TMMC did not file a written submission.

141. OEB Staff submitted that Energy+ correctly used the OEB's IRM model to calculate its 2020 rates,

including the fixed charged, subject to the adjustment of the final inflation factor to 2%. OEB Staff provided an updated IRM model with their submission that was updated to reflect the Board approved 2% inflation factor and a stretch factor of 0.15%.

142. Energy+ has reviewed the updated IRM Model for this change and agrees with OEB Staff that the resulting fixed charge for the Large User class of $9,142.13 is appropriate.

H. FOREGONE REVENUE

143. Energy+ has applied for distribution rates, including an ICM rate rider, effective January 1, 2020. As part of its Application, Energy+ requested that, in the event that the OEB is unable to issue a final decision on Energy+'s 2020 rate application before January 1, 2020, that Energy+ be permitted to recover the incremental revenue from the effective date to the implementation date.

144. OEB Staff submitted that Energy+ has made reasonable efforts to ensure the 2020 IRM Application was processed in a timely manner and supported Energy+'s request for an effective date of January 1, 2019 and the recovery of any resulting foregone revenue related to the price cap adjustment and ICM.

145. The OEB issued an Interim Rate Order on December 12, 2019 which communicated its intention to issue a partial decision and order on the non-ICM portions of the application in time to implement the new rates on January 1, 2020.

146. Energy+ requests that if a partial decision cannot be issued in time that the OEB approve rate riders from any resulting foregone revenue related to the price cap adjustment and ICM.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 20TH DAY OF DECEMBER 2019