



Oakville Hydro Electricity Distribution Inc.
2020 Distribution Rate Adjustment Application (EB-2019-0059)
Effective January 1, 2020

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, being
Schedule B to the Energy Competition Act, 1998, S.O. 1998,
c.15;

AND IN THE MATTER OF an Application by Oakville Hydro
Electricity Distribution Inc. to the Ontario Energy Board for an
Order or Orders approving or fixing just and reasonable rates
and other service charges for the distribution of electricity as of
January 1, 2020.

(ICM Element)

Argument in Chief

Filed: January 13, 2020

INTRODUCTION

Oakville Hydro Electricity Distribution Inc. (“Oakville Hydro”) filed an application with the Ontario Energy Board (the “OEB”) on August 12, 2019 pursuant to Section 78 of the *Ontario Energy Board Act, 1998* for the approval of its proposed adjustments to its distribution rates effective January 1, 2020 (the “Application”). The Application was filed under the OEB’s Price Cap Incentive Rate-Setting Option (“Price Cap IR”) and included a request to recover amounts related to four system access projects through the OEB’s Incremental Capital Module (“ICM”).

The OEB issued a Notice of Hearing and letter of direction on August 29, 2019. In accordance with the OEB’s letter of direction, Oakville Hydro served a copy of the Notice of Hearing, the Application and the evidence, directly on intervenors of record in Oakville Hydro’s cost of service proceeding EB-2013-0159, namely:

- Association of Major Power Consumers of Ontario (“AMPCO”)
- Energy Probe Research Foundation (“EP”)
- HVAC Coalition
- School Energy Coalition (“SEC”)
- Vulnerable Energy Consumers Coalition (“VECC”)

AMPCO, Energy Probe, SEC, VECC, the Consumers Council of Canada (“CCC”) and Pollution Probe applied for intervenor status. The OEB denied Pollution Probe’s request for intervenor status.

On September 17, 2019, the OEB issued Procedural Order No. 1, which set out dates for written interrogatories and submissions.

On September 23, 2019, SEC, VECC, CCC, AMPCO, and EP (SEC, VECC, CCC, AMPCO and EP collectively referred to as the “Intervenors”) filed a Notice of Motion with the OEB seeking an order of the Board amending Procedural Order No. 1:

1. Bifurcating the proceeding between consideration of the ICM funding request and all other aspects of the Application; and
2. Seeking submissions from the Intervenors on whether it is appropriate for Oakville Hydro to seek ICM funding in its Application.

On September 27, 2019, the OEB issued Procedural Order No. 2 in which it determined that it wished to receive submissions from the intervenors and OEB staff on the preliminary question of whether it was appropriate for Oakville Hydro to seek ICM funding in its Application (the “Preliminary Question”).

OEB staff and intervenors filed written submissions on the Preliminary Question on October 10, 2019 and Oakville Hydro filed its reply to those submissions on October 24, 2019.

On November 14, 2019, the OEB issued its Decision and Order on the Preliminary Question. In its Decision and Order, the OEB found that it was appropriate for the OEB to hear Oakville Hydro’s request for ICM

1 funding and that questions such as the in-service dates for the projects, the need for a DSP to support the
2 need for ICM funding and Oakville Hydro's return on equity could be addressed within the proceeding.¹

3 This document is Oakville Hydro's Argument in Chief with respect to the ICM element of this proceeding.

4 OVERVIEW

5 On January 16, 2019, Oakville Hydro requested approval for the deferral of its 2020 cost of service
6 application.² In its 2020 Application, Oakville Hydro requested approval for ICM funding for four system
7 access projects that were expected to be in service in 2019. In its reply to OEB staff and Intervenor
8 submissions on the Preliminary Question, Oakville Hydro submitted that, at the time that it requested
9 approval for the deferral of its cost of service application, it did not have sufficient information to advise
10 the OEB that it intended to file a request for ICM funding in this Application.³

11 In reply to submissions by Intervenor on the issue of whether it is appropriate for Oakville Hydro to
12 request approval for incremental capital projects that may be in service in 2019 in its 2020 Application,
13 Oakville Hydro cited the OEB's Decision in Rideau St. Lawrence Distribution Inc.'s ("Rideau St. Lawrence")
14 2018 IRM application.⁴ In that Decision, the OEB agreed that the typical approach to the ICM is for
15 incremental funding to start in the year that the asset is planned to go into service and that the OEB's
16 models had been designed for this typical situation. However, the OEB noted that the ICM policy states
17 that the Advanced Capital Module ("ACM") and the ICM provide incremental funding for capital projects
18 that go into service during the IRM term. The OEB went on to say that, it considers any period of time
19 between cost of service applications to be part of the term.⁵

20 In its interrogatories, OEB staff noted that, in the Rideau St. Lawrence proceeding, the opening net book
21 value of the assets used to calculate the ICM revenue requirement was reduced by six months of
22 depreciation to account for the fact that the asset had, in fact, gone into service in the previous year. OEB
23 staff sought Oakville Hydro's views on the reasonableness of this approach.⁶

24 In response to that interrogatory, Oakville Hydro submitted that reducing the opening net book value of
25 the assets that will be in service in 2019 by an amount equal to six months of depreciation is an effective
26 way of adapting the OEB's model to accommodate ICM funding for projects with in service dates that
27 precede the requested ICM year.⁷

28 Oakville Hydro proposed that the opening book value of three of the four projects be reduced by an
29 amount equal to six months depreciation to reflect the net book value of those projects and the fourth

¹ Decision and Order On Preliminary Question On ICM Funding, EB-2019-0059, Page 6.

² OEB staff submission on the Preliminary Question, page 2.

³ Reply submission – ICM Element, EB-2019-0059, page 7.

⁴ IBID, page 12.

⁵ Decision and Rate Order, EB-2017-0265, page 5.

⁶ Interrogatory response – ICM Element, EB-2019-0059, OEB staff 2, page 2.

⁷ IBID.

project reflect the gross book value as the fourth project had been delayed and is now expected to be in service in 2020.⁸

ICM ELIGIBILITY

As set out in Chapter 3 of the *Filing Requirements for Electricity Distribution Rate Applications*, the ICM is available to electricity distributors that are filing for an adjustment to their distribution rates under the Price Cap Incentive Regulation (“Price Cap IR”). The ICM is intended to address the treatment of capital investment needs that arise during the rate-setting plan which are incremental to the materiality threshold defined in the ICM. The ICM is available for discretionary and non-discretionary projects. The ICM is also available for capital projects that were not included in the distributor’s last filed Distribution System Plan.⁹

The OEB’s policy for the funding of incremental capital is set out in the *Report of the Board New Policy Options for the Funding of Capital Investments: The Advanced Capital Module*, September 18, 2014 (the “ACM Report”) and the subsequent *Report of the OEB New Policy Options for the Funding of Capital Investments: Supplemental Report*, January 22, 2016 (the “Supplemental Report”).

In order to be eligible for ICM funding, the requested amount must fit within the total eligible incremental capital, which is the difference between the total capital budget for the subject year and the OEB-defined materiality threshold and satisfy the eligibility criteria of materiality, need and prudence set out in section 4.1.5 of the ACM Report.¹⁰

For the reasons that follow, Oakville Hydro submits that its request for ICM funding meets the eligibility requirements set out by the OEB and that its request should be approved.

MATERIALITY

OVERALL MATERIALITY

The ICM materiality threshold is in effect a capital expenditure threshold, which serves to demonstrate the level of capital expenditures that a distributor should be able to manage with its current rates.¹¹ A capital budget is deemed to be material, and as such reflect eligible projects, if it exceeds the OEB-defined materiality threshold. Any incremental capital amounts approved for recovery must fit within the total eligible incremental capital amount and must clearly have a significant influence on the operation of the distributor.¹²

⁸ Interrogatory response – ICM Element, EB-2019-0059, OEB staff 2, page 2.

⁹ Chapter 3, *Filing Requirements for Electricity Distribution Rate Applications* – 2018 Edition for 2019 Rate Applications, page 23.

¹⁰ ACM Report, page, 16.

¹¹ IBID, page 17.

¹² IBID

Oakville Hydro submits that its capital budget, including the capital investment of \$7,100,000 for the four system access projects for which it is seeking approval, exceeds the maximum eligible incremental capital amount and that the incremental capital costs will have a significant influence on its operations.¹³

PROJECT-SPECIFIC MATERIALITY

The ACM Report introduced a project-specific materiality threshold, which requires that individual projects be material in relation to the overall capital budget.¹⁴ In assessing whether the proposed ICM projects were material, Oakville Hydro relied on the OEB's Decision in Alectra Utilities Corporation's ("Alectra") 2018 IRM Application for guidance (EB-2017-0024). In that decision, the OEB stated that, "Amending the ICM policy to include a mathematical materiality calculation for this second test should only be done through a policy review."¹⁵

In assessing the project-specific materiality of each project, the OEB was guided by the words "significant influence on the operation of the distributor" and "minor expenditure in comparison to the overall capital budget".¹⁶ Alectra's combined capital budget was \$267,700,000 and the lowest individual project that was approved for the recovery of incremental capital funding was the York MS project with a total cost of \$2,300,000 or 1% of its total capital budget.¹⁷

Oakville Hydro submits that each of the ICM projects far exceeds 1% of its 2019 capital budget of \$21,174,000 and therefore, these projects meet the project-specific materiality threshold. Oakville Hydro also notes that the total of these mandatory system access projects is equal to approximately one half of its typical capital spending.¹⁸

NEED

The ACM Report requires that a distributor satisfy the eligibility criteria of need, comprised of: a) passing the means test; b) amounts to be incurred must be based on discrete projects; and c) amounts to be incurred must be outside of the base upon which rates were derived.¹⁹

MEANS TEST

Under the means test, funding for any incremental capital project will not be allowed if the distributor's regulated rate of return in its most recent calculation of its regulated return (RRR 2.1.5.6) exceeds 300 basis points above the deemed return on equity in the distributor's rates.²⁰

¹³ 2020 IRM Application, EB-2019-0059, page 11 to 12.

¹⁴ ACM Report, page 17.

¹⁵ Decision and Order, Alectra Utilities Corporation, April 5, 2018, EB-2017-0024, page 25 and interrogatory responses – ICM Element, EB-2019-0059, CCC 6, pages 21 to 22.

¹⁶ Decision and Order, Alectra Utilities Corporation, April 5, 2018, EB-2017-0024, pages 25 to 26.

¹⁷ Interrogatory responses – ICM Element, EB-2019-0059, CCC 6, page 22.

¹⁸ IBID.

¹⁹ ACM Report, page 17.

²⁰ IBID, page 15.

Oakville Hydro's actual ROE between 2014 and 2018 was, at all times, within the dead band of 300 basis points of its approved ROE of 9.36%. In fact, Oakville Hydro has never deviated between its approved ROE by more than 135 basis points in any single year. Oakville Hydro submits that it has passed the means test.

Oakville Hydro notes that, when adjusted for unusual / non-recurring revenue, its weighted average regulated rate of return for the five-year period 2014 to 2018 was 9.24%.²¹

Oakville Hydro's Regulated Rate of Return

	Rebasing Year - 2014	2015	2016	2017	2018
Deemed ROE	9.36%	9.36%	9.36%	9.36%	9.36%
Achieved ROE	9.94%	9.35%	10.71%	9.69%	10.65%
Difference	+0.58%	-0.01%	+1.35%	+0.33%	+1.29%

DISCRETE PROJECT CRITERION

In order to be eligible for an ICM, the distributor must also demonstrate that the amounts being requested for approval are based on discrete projects that are directly related to the claimed driver.²² The discrete project criterion also requires that the ICM projects not be part of a typical annual capital program.²³

With respect to the Bronte TS project, the relocation of Oakville Hydro's assets at Hydro One owned municipal stations is not part of Oakville Hydro's typical annual capital plan. With respect to the road widening projects, distributors can expect to be required to respond to requests from road authorities to relocate distribution assets. However, the magnitude of the required investment for the three road widening projects far exceeds Oakville Hydro's typical annual program. The total value of in-service capital additions related to road widening projects from 2014 to 2018 was \$2,008,678 or \$401,736 per year.²⁴ The capital investment of \$5,400,000 for the three ICM road widening projects is clearly in excess of Oakville Hydro's typical annual road widening program.²⁵

ICM Projects

Project	Amount
Road Widening – Speers Rd	\$2,000,000
Road Widening – Trafalgar Road	2,200,000
Road Widening – William Halton Parkway	1,200,000
Sub-total	\$5,400,000
Bronte Feeder Replacement and Relocation	1,700,000
Total	\$7,100,000

²¹ Interrogatory responses – ICM Element, EB-2019-0059, CCC 3, page 20.

²² ACM Report, page 17.

²³ IBID, Page 13.

²⁴ Interrogatory responses – ICM Element, EB-2019-0059, OEB staff 5, pages 5 to 6.

²⁵ ICM Application, EB-2019-0059, pages 11 to 12.

1 This view is consistent with the OEB's Decision and Order in Alectra's 2018 rate application. The OEB
2 approved Alectra's request for incremental capital funding for its York Region Rapid Transit project, stating
3 that, while a utility the size of Alectra is expected to undertake a certain amount of relocations each year,
4 this project is clearly very material to its operations.²⁶

5 **OUTSIDE OF BASE RATES**

6 Oakville Hydro's 2014 approved distribution rates include \$403,000, net of capital contributions, for road
7 widening projects.²⁷ No amount was included in its 2014 rates for moving feeders at Hydro One owned
8 municipal stations.

9 Oakville Hydro submits that its request for incremental capital funding of \$7,100,000 for these four system
10 access projects is clearly outside of the basis on which its distribution rates were derived.

11 **REQUIREMENT FOR A DSP TO SUPPORT NEED**

12 In its Decision and Order on the Preliminary Question of ICM Funding, the OEB noted that the current
13 Price Cap IR rate-setting method does not specifically include a provision for extensions beyond the
14 standard five-year term and therefore the policy does not set out expectations for when a cost of service
15 application is deferred.²⁸ However, the OEB expressed an interest in addressing questions such as the
16 need for a Distribution System Plan ("DSP") to support the need for an ICM as part of this proceeding.²⁹

17 Oakville Hydro submits that, consistent with the OEB's Decision on the need for a mathematical
18 materiality calculation for the project-specific materiality test in Alectra's 2018 IRM application (EB-2017-
19 0024), the question of whether a DSP is needed to support an ICM application should only be addressed
20 through a policy review.³⁰ Nevertheless, Oakville Hydro appreciates the opportunity to put forth its
21 argument on whether a DSP is required to support its request for ICM funding in this Application.

22 The purpose of a DSP, as set out in Chapter 5 of the *Filing Requirements for Electricity Distribution Rate*
23 *Applications*, is to provide information to the OEB and interested stakeholders on a distributor's:

- 24 • Asset related performance objectives and approach to evaluating its performance relative to
25 those objectives
- 26 • Approach to lifecycle asset management planning and the management of asset related
27 operational and financial risk
- 28 • Plan for capital-related expenditures over a five-year forecast period and the justification of these
29 expenditures
- 30 • Planned investments related to accommodating the connection of renewable energy generation

²⁶ Reply submission – ICM Element, EB-2019-0059, Page 12.

²⁷ Interrogatory responses – ICM Element, EB-2019-0059, OEB staff 5, page 5.

²⁸ Decision and Order On Preliminary Question On ICM Funding, EB-2019-0059, Page 6.

²⁹ IBID.

³⁰ Decision and Order, Alectra Utilities Corporation, April 5, 2018, EB-2017-0024, page 25.

- Planned investments for the development and implementation of the smart grid to support grid modernization and expenditures as required by legislation.³¹

In this Application, Oakville Hydro is not seeking approval for its planned capital investment program. The projects for which Oakville Hydro is seeking approval for ICM funding are discrete, material and prudent system access projects that are not at Oakville Hydro's discretion. Oakville Hydro has been able to manage its capital plan through the rates that were set in its last cost of service application and adjusted annually through the Price Cap IR rate-setting method.

For the road widening projects, Oakville Hydro has mandatory legal obligations under the *Public Service Works on Highways Act* ("PSWHA") to relocate its assets when requested to do so by the Town of Oakville (the "Town") or the Region of Halton (the "Region"). For the Bronte TS upgrade project, the investment required by Oakville Hydro was determined by Hydro One's transmission system plan.³²

Oakville Hydro submits that a DSP is not required to determine whether these system access projects are incremental to its capital needs. These projects were not undertaken to renew or expand Oakville Hydro's distribution system but rather to move its distribution assets to accommodate the needs of the third parties making the system access requests.³³

PRUDENCE

The ACM Report requires that the amounts to be incurred must be prudent. This means that the distributor's decision to incur the amounts must represent the most cost-effective option (not necessarily the least initial cost) for ratepayers.³⁴

For the Bronte TS upgrade project, Oakville Hydro worked with Hydro One to optimize the design for the routing and interconnection of the new underground feeder location with the existing overhead infrastructure to minimize the impact on existing infrastructure and to ensure that there was no cascade effect on other assets that would have increased the project costs.³⁵

Oakville Hydro works closely with the Town and the Region to optimize the roadway design to minimize the relocation requirements while meeting the needs of the community. Since the costs are shared with the road authority, cost reductions benefit both parties. Oakville Hydro also identifies opportunities to upgrade and/or modify the existing distribution assets to improve reliability and interoperability where doing so provides value to its customers. This proactive approach to system renewal extends the life of the distribution assets and reduces the requirement for future system renewal and asset maintenance investments.³⁶ For these reasons, Oakville Hydro submits that the amounts to be incurred are prudent.

³¹ Chapter 5, Filing Requirements for Electricity Distribution Rate Applications - 2018 Edition for 2019 Rate Applications, page 5.

³² Reply submission – ICM Element, EB-2019-0059, page 1.

³³ IBID, page 11.

³⁴ ACM Report, page 17.

³⁵ Interrogatory responses – ICM Element, EB-2019-0059, OEB staff 4, page 4.

³⁶ Interrogatory responses – ICM Element, EB-2019-0059, Appendix 4, ICM Business Cases.

CONCLUSION

In conclusion, Oakville Hydro submits that its request for incremental capital funding for these four system access projects is incremental to Oakville Hydro's capital needs and material to its operations. Oakville Hydro submits that its request for ICM funding meets the eligibility requirements as summarized below:

- The capital budget, including the capital investment of \$7,100,000 for the four system access projects for which it is seeking approval for, exceeds the OEB-defined overall materiality level;
- each of the individual capital projects is significant in relation to the total capital budget;
- Oakville Hydro's ROE between 2014 and 2018 was, at all times, within the dead band of 300 basis points;
- the projects for which Oakville Hydro is requesting ICM funding are discrete projects that are not part of its typical annual capital program;
- the amount requested is outside of the basis on which Oakville Hydro's distribution rates were derived; and
- the amounts to be incurred for these projects are prudent.

For these reasons, Oakville Hydro submits that its request for ICM funding should be approved.

All of which is respectfully submitted.

Original signed by

Maryanne Wilson
Director, Regulatory and Compliance