

**ONTARIO ENERGY BOARD**

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

**AND IN THE MATTER OF** an application by Oakville Hydro Electricity  
Distribution Inc. 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.

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**Argument Submission of**  
**Energy Probe Research Foundation**

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**January 27, 2020**

## **Oakville Hydro 2020 Rates Application**

### **ICM Element**

#### **Executive Summary**

Energy Probe Research Foundation (Energy Probe) submits that the OEB should not approve the application of Oakville Hydro for ICM funding for the four projects for the following reasons.

- Oakville should not be eligible to apply for approval of ICM projects because it is effectively using the Annual IR Index method.
- The evidence does not support approval of any of the four proposed projects individually.
- These are routine projects and do not qualify for ICM funding.
- OEB should not approve ICM applications for completed projects.
- Oakville Hydro does not need ICM funding from ratepayers.

#### **Oakville should not be eligible to apply for approval of ICM projects**

The OEB's Filing Requirements<sup>1</sup> allow distributors to select one of three rate setting methods: Price Cap IR, Custom IR, and Annual IR Index. Of the three methods, only distributors using the Price Cap IR rate setting method are allowed to apply for capital project funding using the Incremental Capital Module (ICM).

The rate term for distributors using the Price Cap IR method is five years consisting of cost-of-service ("COS") rebasing followed by four years where rates are set by the Price Cap IR formula using OEB approved parameters. Oakville Hydro has deferred filing a COS rebasing application for two years. By its own admission it may again ask for a deferral<sup>2</sup> at the risk of no longer being eligible to apply for ICM funding. The implication of what Oakville Hydro has said is that a

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<sup>1</sup> Filing Requirements for Electricity Distribution Rate Applications - 2018 Edition for 2019 Rate Applications, July 12, 2018; Chapter 3, Incentive Rate-Setting Applications, page 2

<sup>2</sup> CCC-2, Interrogatory Responses, page 19 of 39

distributor with two rebasing deferrals can continue to set rates using the Price Cap IR method and be eligible for ICM, but a third deferral would require the distributor to set rates using the Annual IR Index method and be ineligible for ICM.

In their letter of May 13, 2019 granting deferment, the OEB states in part:

*This is the second year that Oakville Hydro has sought a deferral to filing a cost of service rate application. If Oakville Hydro subsequently seeks a further deferral the OEB will consider whether the Annual Incentive Rate-setting Index method that was developed for distributors intending longer periods without rebasing should be applied. The OEB will also consider whether the filing of a distribution system plan would be required at that time.*

Oakville Hydro also submits<sup>3</sup> 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. Energy Probe disagrees with this assertion that a DSP is not required for these System Access Projects.

In Energy Probe's opinion, Oakville Hydro should not be eligible for ICM because of its two deferrals and a lack of a DSP. The OEB's filing requirements are not similar to baseball rules with two strikes you can continue batting and with three strikes you are out. In Energy Probe's opinion, Oakville Hydro is already out and should not be allowed to use the Price Cap IR method with ICM for setting rates.

**The evidence does not support approval of any of the four proposed projects individually**

Oakville Hydro has applied for ICM funding of four projects: three relocations for road widening and one feeder replacement project. The smallest of these is estimated at net of contributions \$1.2 million and the largest is \$2.2 million<sup>4</sup>. In aggregate the four projects total \$7.1 million.

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<sup>3</sup> AIC Page 7

<sup>4</sup> Oakville Hydro Application, page 11 of 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.

Individually, none of the four projects exceed the maximum eligible incremental capital of \$6.1 million. They only do so in aggregate. OEB's requirements specify that an ICM application must be for a discrete project not for aggregation of smaller projects. In Energy Probe opinion, the evidence filed by Oakville Hydro does not support OEB approval of any of the four proposed ICM projects.

### **These are routine projects and do not qualify for ICM funding**

Oakville has done similar relocation projects in the past<sup>5</sup>. The spending in recent years on road relocations was significant, particularly in 2017 and 2018. It appears from the evidence that road relocations are a regular capital expenditure by Oakville Hydro. In its ACM report the OEB explained its requirement.

*"The Board is of the view that projects proposed for incremental capital funding during the IR term must be discrete projects, and not part of typical annual capital programs. This would apply to both ACMs and ICMs going forward."*<sup>6</sup>

In its AIC <sup>7</sup> Oakville states

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. 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.

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<sup>5</sup> Staff 5, Interrogatory Responses, page 6 of 39

<sup>6</sup> EB-2014-0219, New Policy Options for the Funding of Capital Investments: The Advanced Capital Module, p 13

<sup>7</sup> AIC Page 5

In Energy Probe's opinion, the capital expenditures for relocations to accommodate road widening are a normal part of the annual capital expenditures by Oakville Hydro and although they occurred in one year they should not qualify for ICM funding.

### **OEB should not approve ICM applications for completed projects**

Oakville Hydro knew enough about the relocation project by the end of 2016<sup>8</sup>. It could have applied to the OEB for approval in its 2018 application. The fact that it did not apply before the work on projects started, limits OEB's decision options. If the OEB approves this ICM application, it will be a signal to other distributors to apply for completed projects from previous years.

### **Oakville Hydro does not need ICM funding from ratepayers**

Based on the updated ICM model, Oakville indicates approval of all four ICM projects would result in the approval of the maximum allowed incremental capital amount of \$5,325,085 and \$1,701,915 would be funded through current rates.

Oakville Hydro's response to an interrogatory<sup>9</sup> shows that historic System Access Capital Expenditures have frequently exceeded Plan by 200-350 percent. Oakville Hydro has accommodated these variations in its Capital Envelope and still made or exceeded its allowed Return on Equity.

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<sup>8</sup> EP-2, Interrogatory Responses, pages 27 and 28

<sup>9</sup> AMPCO-6, Appendix 2-AB

Energy Probe notes that Oakville was able to finance the completion of relocation projects without ICM funding in recent years, and has completed the three projects already with no apparent financial difficulties. That proves that Oakville does not need incremental funding.

Submitted on behalf of Energy Probe by its consultants

Tom Ladanyi

TL Energy Regulatory Consultants Inc.

Roger Higgin

SPA Inc.