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Oakville Hydro Electricity Distribution Inc.
Application for electricity distribution rates
effective January 1, 2020

ICM Proposal

EB-2019-0059

Submission
of the
Vulnerable Energy Consumers Coalition
(VECC)

January 27, 2020

Vulnerable Energy Consumers Coalition

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Submissions

Oakville Hydro Electricity Distribution Inc. (Oakville Hydro) is seeking to increase its rates in order to fund four ICM projects. Three of these projects arise out of municipal road allowance relocations and are subject to the *Public Service Works on Highway Act* (PSWHA). One project is to replace feeders at Hydro One Networks Inc. (Hydro One) Bronte Transformer station.

The total costs of the projects as of October 31,2019 (i.e. including capital contributions of the municipality) are shown below[1]:

Project Description	Oakville Hydro's Cost	Contributed Capital	Total Costs
Feeder metering Bronte TS Upgrade	$ 1,579,714	$ -	$ 1,579,714
Town of Oakville Road Widening - Speers Road	2,014,733	1,069,050	3,083,783
Halton Region Road Widening - Trafalgar Road	1,910,173	1,034,139	2,944,312
Halton Region Road Widening - William Halton Parkway	321,424	149,139	470,563
Total	$ 5,826,044	$ 2,252,328	$ 8,078,372

Oakville Hydro has calculated the revenue requirement using the updated ICM costs and both the current OEB approved cost of capital parameters as shown in the table below.[2]

Incremental Capital Revenue Requirement

Total Incremental Revenue Requirement	Approved	Current	Difference
Long-term Debt	$ 137,850	$ 94,559	$ (43,291)
Short-term Debt	4,440	5,786	1,347
Return on Equity	196,945	179,271	(17,675)
Amortization Expense - Total	129,584	129,584	-
Grossed-Up Taxes/PILs	(35,866)	(35,866)	-
Incremental Revenue Requirement	$ 432,953	$ 373,335	$ (59,618)

The projects are subject to the Boards ACM Report policies which set out the requirements of materiality, need and prudence[3].

[1] AMPCO-1

[2] VECC-14

[3] Report of the Board, New Policy Options for the Funding of Capital Investments: The Advanced Capital Module, EB-2014-0219, September 18, 2014.

Need

Three of the four projects are with respect to mandatory plant relocation as part of municipal road works. The replacement is like for like and therefore, we submit, the case for need of these projects has been met.[4]

The Hydro One Bronte TS connection is not mandatory. Oakville intends to replace fully amortized pole circuits with underground feeders. Oakville states that the underground connection was a requirement of Hydro One. No evidence of this requirement was proffered.

Prudence - Timing

Oakville Hydro explains that the Town first notified it of the Speers Road project on October 22, 2015, but that discussion did not begin until early 2016 when the Town issued the preliminary civil road design. The Region held the first utility coordination meeting for the Trafalgar Road project on August 26, 2016

The Region initiated the William Halton Parkway project in 2013. Oakville Hydro explained it did not receive notification that the project would proceed until November 5, 2015[5]. The start and in-service dates of the road projects are shown below[6].

The evidence is that Oakville Hydro did not negotiate the scope and timing of the road widening projects.

Project	Start Date	Schedule Length	In-Service Date
Town of Oakville Road Widening - Speers Road	4-Feb-19	6 Months	30-Jul-19
Halton Region Road Widening - Trafalgar Road	25-Mar-19	9 Months	20-Dec-19
Halton Region Road Widening - William Halton Parkway	30-Apr-19	9 Months	10-Jan-20

The planned in-service date for Oakville Hydro's assets at the Bronte TS is December 2019 and January 2020. For the purpose of determining the ICM funding (i.e. additions to rate base), Oakville Hydro is proposing that the assets be deemed to be in service as of December 2019[7].

[4] Staff-6 explains that none of the ICM road widening involved the replacement of overhead assets with underground assets – that is the replacements were like-for-like.
overhead assets with underground assets.
[5] EP-1
[6] AMPCO-2
[7] Staff-4

Threshold

We take no position with respect to the calculation of the ACM threshold, however, it remains unclear to us why a 13% working capital amount is used in the calculation of the threshold (in either of ACM_ICM_Model_20191212 & 20190812 Tab 9b).

We do take issue with the broader question as to whether Oakville Hydro meets the intent of the ACM/ICM policies. Specifically, we take the position that the Applicant has not proven that it unable to absorb the proposed projects within its normal capital expenditures and the current rates.

Oakville Hydro knew substantively before the filing of this application of the need to undertake the road widening projects. For at least two of the projects the understanding of need and the approximate construction times were known as early as 2016. In our submission Oakville Hydro acted imprudently by delaying its request for the road allowance projects.

Oakville Hydro points out that the Board has dealt tangentially with a similar issue in the case of St. Rideau Lawrence Distribution Inc.'s (RSL) filing EB-2017-0265. That proceeding was subject to a settlement as between RSL and Board Staff acting as a party. The Board accepted the full settlement between the parties. In the Settlement the ICM related issue was described as thus:[8]

> *RSL, as part of its IRM application EB-2017-0265, has submitted a request for a capital funding rate rider for a digger truck that was put into service in April 2017.*
>
> *The truck is included in RSL's Distribution System Plan ("DSP") as submitted in its EB-2015-0100 COS application. The planned year of acquisition of the digger truck in the DSP was 2016. The digger truck was delivered to RSL in April 2017. The nature and need for, and the forecasted capital cost of, the digger truck was documented in the DSP and further explored and tested through interrogatories in the EB-2015-0100 proceeding.*
>
> *In the OEB's Decision and Rate Order for EB-2015-0100, the OEB stated that "[t]he OEB finds that it is appropriate to use 2016 as the test year with rates effective in 2017 in this case"[3], with consideration to sections 2.3 and 5.2 of the settlement proposal accepted by the OEB in EB-2015- 0100. As the truck was not received in 2016, the cost could not be included in the capital assets of the rate base underpinning the re based distribution rates.*
>
> *In the EB-2015-0100 Decision and Rate Order, the OEB further stated that the "[t]he OEB finds that Rideau St. Lawrence Distribution's rates have been rebased for 2016 and its next cost of service application should be filed for 2021 rates. The OEB finds that Rideau St. Lawrence Distribution should file its next IRM application for May 1, 2018 rates as this Decision and Order is issued in the 2017 rate year."4 (Decision and Rate Order EB-2015-0100, June 15, 2017, p. 5)*
>
> ***This IRM application is the first opportunity that RSL has had to request funding for this significant and planned purchase.*** *The digger truck is providing a benefit to RSL's customers, as it replaced an aging and unreliable truck. The digger truck represents a significant capital expenditure over the level of normal capital expenditures recovered through RSL's base distribution rates. The level of capital expenditures approved in EB-2015-0100 for the 2016 test year (and also for 2017) is $464,088, ignoring the digger truck capital cost of $379,015. Not recovering prudently incurred costs for the truck - which is in service to allow RSL to provide safe,*

[8] Rideau St. Lawrence Distribution Inc, EB-2017-0265, Settlement Proposal, February 22, 2018, pages 11-12

reliable and quality distribution services to its customers - could pose a significant financial risk to RSL's financial picture over the current Price Cap IR term. RSL views the capital funding as a means to appropriately recover this capital expenditure necessarily incurred to service its customers.

While recovery of costs for 2017 may be considered out-of-period, the Parties accept and rely on the terms of the settlement proposal accepted by the OEB in EB-2015-0100 that RSL, other parties, OEB staff and the OEB accepted the adequacy of the approved rates in EB-2015-0100 for funding RSL's capital and operating expenditures in 2017.

The methodology agreed to by the Parties is based on that established for capital funding through Incremental and Advanced Capital Modules, as documented in the Report of the Board on Policy Options for Funding Capital Investments (EB-2014-0219), September 18, 2014 and the Report of the Board on Policy Options for Funding Capital Investments: Supplemental Report (EB-2014-0219), January 22, 2016. However, the cost recovery for the digger truck beginning in 2018 is not an Incremental Capital Module as the digger truck entered service prior to 2018. As agreed to by the Parties, the capital funding revenue requirement calculation uses the net book value (i.e ., gross book value less accumulated depreciation in 2017) of the truck as of January 1, 2018 as the amount to be included in the calculations for the purpose of determining the associated revenue requirement and the rate riders to recover that beginning with 2018 rates. The Capital Funding Module spreadsheet was modified, as documented in Staff IR-5, and updated as filed along with this settlement proposal, to reflect this agreed to approach.

The settlement then goes on the calculate the capital funding on a net basis taking into account the depreciation as between the purchase of the asset and the time in which it is recognized for funding recovery.

In approving the Settlement Agreement, the Board made the following comments in its Decision[9]:

The OEB accepts the outcome of the settlement proposal and agrees that the methodology adopted in the settlement proposal for determining the incremental funding is appropriate. However, there are two statements in the settlement proposal for which the OEB has comments.

The first is the statement that: "recovery of costs for 2017 may be considered out-of-period". The OEB does not consider the cost for the digger truck to be an out-of-period cost in 2018. No incremental funding is being sought for 2017, and the cost used for the calculation of the funding starting in 2018 is the net book value of the asset in 2018 (i.e. it has been reduced by the depreciation in both 2017 and 2018).

The second statement is that: "the cost recovery for the digger truck beginning in 2018 is not an Incremental Capital Module as the digger truck entered service prior to 2018." The OEB agrees that the typical approach to the incremental capital module (ICM) is for the incremental funding to start in the year that an asset is planned to go into service. The OEB's models have therefore been designed for this typical situation. ***However, the OEB considers the approach used for incremental capital funding <u>as part of this settlement</u> proposal consistent with the OEB's policy for the ICM****. The policy states that the advanced capital module (ACM) and ICM are for incremental funding for "capital projects scheduled to go into service during the IRM term".*

The OEB considers any period of time between cost of service applications to be part of the IRM term. The digger truck therefore went into service during the IRM term. In the unique circumstances of Rideau St. Lawrence Distribution there was no 2017 rate application and,

[9] Decision and Rate Order, EB-2017-0265, Rideau St. Lawrence Distribution Inc., March 22, 2018, pages 4-5

> *therefore, no incremental funding was available for the digger truck in 2017, but this does not prohibit incremental funding for 2018.*
>
> *The OEB's ICM policy also states that: "Funding shall not commence for any projects that are not forecasted to be in service during the subject IR year". The digger truck is in service in 2018 and is therefore eligible for the ICM, subject to the other conditions. The settlement proposal referred to the rate riders for the digger truck as the "capital funding rate riders". The proposed Tariff of Rates and Charges, Appendix A to the settlement proposal, used the name "Rate Rider for 2017 Capital Funding". The OEB is amending the Tariff of Rates and Charges to replace this name with "Rate Rider for the 2018 Capital Funding" in order to reflect the year for which the incremental funding starts.*
> (Emphasis added)

We would make the following observations of this decision and the applicability to the current case. First, we would note that the RSL proceeding was subject of a settlement agreement. Not only are prior decisions of the Board not binding but cases of settlement are especially prone to unique circumstances where the "quid pro quo" of negotiations is unknow. In these cases, the Board accepts (or rejects) the settlement as a whole and on the balance of the public interest. Neither the Board or Oakville Hydro are privy to those detailed negotiations. The Board recognizes this very point by noting that "as part of this settlement" the proposal is acceptable.

The Board did make the clarification that it would not consider ICM project cost recovery out of period provided the applicant were to seek recovery of amounts on a net basis going forward. It is a semantic nuance as between the wording in the settlement that the project costs would be "*out of period*" and the Board's counterpoint that costs would not be out of period if they are recovered only on a net basis going forward. In any event, should Oakville Hydro make the amendment suggested in its interrogatory responses it would meet the condition that costs can only be recovered on a go forward basis.

However, in our view Oakville Hydro cannot rely on this decision, or its other referenced case Burlington Hydro EB-2018-0021, to support a contention that a utility who files for ICM funding subsequent to the start of the projects in question is eligible for ICM funding. Oakville sought a second deferral the normal period for a cost service rebasing. It did so on January 16, 2019. On February 4, 2019 it started the first of the road allowance projects and by April 30 it had started the all three of the projects. The Board provided the relief sought on May 13, 2019. The Application, containing the first formal notice of the projects, was filed on August 12, 2019.

Why are all these dates important? They are important because they reflect on the intent of the Applicant. We submit that Oakville Hydro's intent was to avoid scrutiny which might otherwise demonstrate that these projects could be accommodated within existing rates. It also sought, in our view, to avoid scrutiny of its 2019 and 2020 capital budget because this might lead the Board to conclude that its capital budget could be prioritized in such a manner as to complete these ICM projects within the existing rate envelope by delaying other less pressing projects.

The Board's authority is set just and rates reasonable rates and not to fund capital budgets. As such rather than consider the ICM projects in isolation, in our submission, the Board should consider whether in the absence of ICM funding the Utility would suffer egregious financial hardship.

There is no evidence it would. In fact, as shown in the table below Oakville Hydro has exceeded its ROE in the years 2014, 2016, 2017 and 2018[10].

Table 4
Oakville Hydro's Regulated Rate of Return

	Rebasing Year - 2014	2015	2016	2017	2018
Deemed ROE	936	936	936	936	936
Achieved ROE	994	935	1071	969	1065
Difference	+58	-1	+135	+033	+129

Oakville Hydro is financing the ICM projects through its cash reserves, operating line of credit and capital contributions from the Town and Region.[11]

Finally, Oakville has not imputed the value of the accelerated CCA which these projects will attract. Instead, and in accordance to prior Board directions to LDCs, it will record the impact in a deferral account.[12] This means that there is a financial benefit accruing which ultimately offsets some of the financial requirements for these projects.

The Board can draw from these facts that the Utility is not facing financial hardship and is unlikely to do so in the absence of ICM funding. The test to be applied is whether the Utility has a reasonable opportunity to earn its rates of return. In our submission there is no evidence that even in the absence of the proposed incremental ICM funding the Utility will not earn or even exceed the Board set rates of return.

Capital Program

In considering the rationale for ICM funding the Board should also examine the past capital spending. The Board has on a number of occasions both in cost of service filings and ICM/ACM applications looked at the issues of pacing and prioritization. The question that needs to be answered in this case is not whether the projects need to be undertaken but what projects might have been timed differently to allow the projects to fit within a "normal" annual capital spending envelope.

In the case of the road allowance projects where timing is outside the control of the Utility the question is whether there were projects that might be prudently deferred in order to accommodate the large road allowance program. In the case of the feeder project the question is also whether this project might itself have been deferred.

Below is the standard Appendix 2-AA filing provided by Oakville in response to AMPCO interrogatory #5

[10] Reply Submission on Preliminary Question, October 24, 2019
[11] VECC-9
[12] Account 1593 – PILS and Tax Variances

Appendix 2-AA Capital Projects Table

Projects	2014	2015	2016	2017	2018	2019 Fcst.
Reporting Basis	**CGAAP**	**MIFRS**	**MIFRS**	**MIFRS**	**MIFRS**	**MIFRS**
System Access						
Distribution Meters	$ 572,707	$ 629,874	$ -	$ -	$ 2,001,032	$ -
Glenorchy Backup Transformer	2,991,940	1,216,247	-	-	-	-
Milton Hydro Feeders	37,286	-	-	-	-	-
New Services	1,583,829	2,236,622	2,026,148	2,397,581	2,152,741	7,453,400
Road Widening	823,505	286,555	397,961	500,657		5,475,000
Sub-Total	**$ 6,009,266**	**$ 4,369,299**	**$ 2,424,108**	**$ 2,898,239**	**$ 4,153,773**	**$ 12,928,400**
System Renewal						
Transformer Replacements	$ 853,640	$ 727,175	$ 379,133	$ 663,239	$ 374,699	$ 1,509,000
Municipal Station Upgrades	919,831	56,035	316,189	339,222	1,098,229	-
Pole Replacements	307,950	273,728	-	8,030	1,230	-
Rear Lot Conversion	25,904	-	-	-	-	-
Replace Underground Assets	1,154,429	1,865,592	2,446,391	2,802,597	2,533,130	2,005,000
Replace Overhead Assets	1,642,066	742,119	1,043,218	1,112,894	1,461,700	200,000
Switchgear Replacement	730,772	586,159	571,861	1,159,007	452,776	740,000
DPU IED Replacements	-	70,349	-	-	-	-
Reactive Replacements		954,095	1,479,809	1,372,567	1,504,516	751,000
Metering Upgrade		-	-	71,003	147,198	-
Sub-Total	**$ 5,634,591**	**$ 5,275,252**	**$ 6,236,602**	**$ 7,528,558**	**$ 7,573,478**	**$ 5,205,000**
System Service						
Asset Management	$ 340,718	$ 69,983	$ 234,149	$ 300,201	$ 428,411	$ 155,000
SCADA Enhancements	-	52,827	88,024	47,218	137,003	170,000
GIS Enhancements	-	-	91,042	298,274	-	150,000
Sub-Total	**$ 340,718**	**$ 122,810**	**$ 413,214**	**$ 645,693**	**$ 565,414**	**$ 475,000**
General Plant						
Asset Management	$ 103,908	$ -	$ -	$ -	$ -	$ -
Communications	58,112	-	158,815	24,733	18,075	30,000
Software	525,114	366,118	60,647	176,352	480,846	875,300
Tools	76,276	64,999	30,247	96,168	27,379	150,000
Vehicles	338,228	-	339,786	501,597	1,205,350	-
Network/Server Infrastructure	-	397,426	376,499	-	-	-
Leasehold Improvements	-	691,450	1,192,324	-	193,857	757,000
Equipment	-	-	-	401,552	559,146	753,300
Sub-Total	**$ 1,101,639**	**$ 1,519,992**	**$ 2,158,317**	**$ 1,200,402**	**$ 2,484,653**	**$ 2,565,600**
Miscellaneous						
Total	**$ 13,086,215**	**$ 11,287,353**	**$ 11,232,242**	**$ 12,272,891**	**$ 14,777,318**	**$ 21,174,000**
Less Renewable Generation Facility Assets and Other Non-Rate-Regulated						
Total	**$ 13,086,215**	**$ 11,287,353**	**$ 11,232,242**	**$ 12,272,891**	**$ 14,777,318**	**$ 21,174,000**

Because no distribution plan is filed unexplained in 2019 is the nearly 260% increase in capital costs for new services. The large increase in this capital program area might be indicative of considerable revenue increase in 2020 due to customer growth.

Also unexplained is an almost 200% increase in equipment capital costs as compared to the 2014-2018 average capital spending. In the two years prior to 2019 leasehold improvements were only 194k. In 2019 they are $753k – why? Why is 2019 the year Oakville Hydro chose to spend $1.5million on transformers where as the year before it spent less than $375k? Why? We do not know because the actual 2019 and historical capital spending budgets were only provided in response to an interrogatory. There has been no opportunity to further explore those questions and indeed it is not the obligation of intervening parties or the Board to prove the Applicant's case.

Certainly, in other places the Utility is spending less but how is the Board to understand the pacing of all of the various projects? While the projects may themselves be prudent there is a lack of clarity as to the reasonableness of the 2019-2020 capital budgets and appropriateness of pacing with other capital projects.

When a utility files for an ICM outside of the Distribution Plan period reviewed by the Board there is, in our submission, an increased obligation on the part of the Utility to answer these questions. While we are not arguing the need for the specific ICM projects we do make the submission that the Applicant has not made the case that it requires a rate increase to fund its capital budget.

In this case the Board has before it a paucity of in-chief evidence and the response to parties' interrogatories. In this proceeding there has been no settlement conference or oral hearing to explore any of the interrogatory responses. Instead the Applicant has attempted to lead new evidence in its Reply Submission on the motion and is amending its application on the fly through the interrogatories.

Natural justice requires that interested parties have an opportunity to fully examine and test the evidence of the Applicant. In this proceeding that has occurred solely through the interrogatory phase. In our submission the evidence, while it supports the used and usefulness of the projects, does not provide the basis for increasing rates of Oakville Hydro ratepayers. The Utility has shown neither the financial need nor the reasonableness of its overall capital budget. That is, it has not shown it could not have modified the 2019 and 2020 capital budgets so as to accommodate the capital projects without seeking incremental rate funding.

It is also our submission that the Board should consider the manner in which the Applicant has put this application forward and consider the following questions. Had the Board known in January 2019 that Oakville Hydro was embarking on capital program in 2019 which was nearly twice as large as that taken on average over IRM period would it have granted a cost of service application deferral? Had the Board known that the Utility was projecting a massive increase in capital spending on new services might have wished to understand whether there were imminent incremental revenues streams for a Utility which has consistently over earned?

If provided the sought relief there is a reasonable chance that the Utility will again over earn in 2020. This would result, we submit, in unjust and unreasonable rates being charged the ratepayers of Oakville Hydro.

Allocation of any ICM funding

Oakville Hydro did not include the embedded distributor class in the ICM model so that no ICM revenue requirement would be allocated to the embedded distributor class.

Milton Hydro is the embedded distributor and it was Oakville's position that they not benefit from improvements to the roadways in the Town of Oakville and therefore, they should not bear the costs of those improvements[13].

In our view the issue is not whether Milton Hydro Benefits from roadworks but rather whether it benefits from the new distribution assets. There two ways that embedded distributors can be treated in the Board's cost allocation model: i) just like any other class with costs allocated accordingly or ii) using a direct allocation that looks at the assets used to serve the embedded distributor, both those assets shared and unique, allocating a portion of the former and all of the latter.

Oakville's proposal is the use direct allocation. It is our understanding that this is consistent with what was used in the last cost of service application where no line costs were directly allocated to Milton Hydro. However, given the form of this proceeding no opportunity was provided to test this allocation beyond the interrogatories. From the responses to those questions it remains unclear as to whether the proposal is appropriate, even under direct allocation. Nor is it clear that none of the improvements to the Bronte station connection should be excluded from the embedded class. Of course, the issue as to whether direct allocation is even appropriate per se is a matter that has not been examined in this proceeding.

In our submission the issue of the appropriate allocation of costs to Milton Hydro is best determined in a cost of service application. Until that time, in our submission it is not possible to conclude whether the proposed exclusion of the embedded distributor from bearing any of these capital costs is appropriate or reasonable

Summary

In our view the ICM projects are prudent and needed. However, this does not mean the case for increasing rates to fund these projects has been made. It has not.

In our submission Oakville Hydro has failed to make the case that it requires an increase in rates to fund new capital projects. In fact, the evidence suggests that the utility will have

[13] Staff-7

increased earnings in 2020 and given its historical pattern of overearning no case is made to increase rates.

It is also our submission that the Board should consider the actions of this Utility which, if not deceptive is certainly selective in its approach. Should the Board approve this application it would be sending a message to other utilities that they this type of gaming behaviour is accepted by the Board. ACM/ICM funding is a policy not some form of enshrined mechanism to finance capital. The Ontario Energy Board does not finance capital budgets, it sets rates. In doing so it must ensure those rates are just and reasonable. In our respectful submission it is neither just or reasonable to increase rates where a utility shows no financial need for an increase and where they have acted in a selective manner and which calls into question the fairness of their request.

We submit the Board should deny the application and order Oakville Hydro to filed a cost of service application in due course.

Reasonably Incurred Costs

VECC submits that it has acted responsibly and efficiently during the course of this proceeding and requests that it be allowed to recover 100% of its reasonably incurred costs.

ALL OF WHICH IS RESPECTFULLY SUBMITTED