

ONTARIO ENERGY BOARD

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 Burlington Hydro 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 May 1, 2020.

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Argument Submission of
Energy Probe Research Foundation

January 31, 2020

Burlington Hydro 2020 Rates Application

Executive Summary

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

- Burlington should not be eligible to apply for approval of ICM projects because it is on its second consecutive re-basing deferral.
- The evidence does not support approval of either of the two projects. There is insufficient evidence that Burlington Hydro's decisions to proceed with the two projects were prudent.
- Burlington Hydro has not demonstrated that it can not finance the two projects through existing rates.
- The evidence does not support urgent need for approval of either of the two proposed projects as one project is complete and the other will be essentially completed by the time the OEB issues its decision in this case.

Burlington should not be eligible to apply for approval of ICM projects

Burlington Hydro's last Cost of Service (COS) application to the OEB, EB-2013-0115, was for the 2014 test year commencing May 1, 2014. Its rates for 2015, 2016, 2017, and 2018 were set using the Price Cap IR mechanism. It was scheduled by the OEB to file a COS rebasing application for 2019. In February 2018, Burlington Hydro requested and was granted a one-year deferral in the filing of a COS rebasing application. So instead of filing a COS rebasing application for 2019, Burlington Hydro was allowed to file a Price Cap IRM application for 2019 rates with the understanding that its next application for 2020 rates would be a COS rebasing application. Contrary to that understanding, in February 2019, Burlington Hydro requested and

was granted another one-year deferral in filing a COS rebasing application, now understood to be filed for 2021 rates.¹

OEB decisions to approve the COS rebasing deferral for 2020 rates was based in-part on Burlington Hydro's letter to the OEB that indicated that its Return on Equity (ROE) was within a 300 basis point threshold of its approved rate of return.² Burlington Hydro did not mention in its letter that it was planning to file a request for ICM funding in its 2020 application because it was unable to fund its IT replacement projects with existing rates.³

The OEB's Filing Requirements⁴ 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. Burlington Hydro has deferred filing a COS rebasing application for two years. In Energy Probe's opinion, Burlington Hydro should not be eligible for ICM because of its two deferrals. Its two COS rebasing deferrals have effectively moved it to the Annual IR Index method. Distributors using the Annual IR Index are not eligible to apply for ICM funding.

The evidence does not support approval of either of the two projects

Burlington Hydro has applied for ICM funding of two projects: the \$1.445 million Customer Information System (CIS) replacement project, and the \$0.5 million Geographic Information System (GIS) replacement project⁵. According to Burlington Hydro's evidence a distributor must

¹ Exhibit 1, page 5

² Burlington Hydro's letter to the OEB, February 20, 2019

³ SEC-1

⁴ Filing Requirements for Electricity Distribution Rate Applications - 2018 Edition for 2019 Rate Applications, July 12, 2018; Chapter 3, Incentive Rate-Setting Applications, page 2

⁵ Exhibit 1, page 46

satisfy the eligibility criteria of need, comprised of: (i) passing the means test; (ii) amounts to be incurred must be based on discrete projects; and (iii) amounts to be incurred must be outside of the base upon which rates were derived. These eligibility criteria are discussed below.

Means Test

According to Burlington Hydro, if a distributor's regulated return on equity ("ROE") exceeds 300 basis points above the deemed return on equity embedded in the distributor's rates, the funding for any incremental capital project will not be allowed. Because its 2018 actual ROE was 7.03%, 2.33% lower than the deemed ROE of 9.36%, Burlington Hydro claims that it has passed the Means Test.⁶ Energy Probe disagrees with that conclusion because it only deals with over-earnings in a previous year. It does not demonstrate that Burlington Hydro would not be able to finance the two proposed ICM projects with 2020 rates by managing its capital program. Burlington Hydro was able to finance the completion of its IT projects without ICM funding in recent years and has completed the GIS replacement project and most of the parts of the CIS replacement project already with no apparent financial difficulties. That proves that Burlington Hydro does not need ICM financing.

Discrete Projects

Burlington Hydro claims that the two IT replacement projects are discrete projects and unrelated to a recurring annual project⁷. Energy Probe disagrees with a part of that claim. Energy Probe agrees that the two IT replacement projects are discrete projects, however replacement of IT software is a recurring need for distributors with IT systems. It is likely that Burlington Hydro has regular IT software expenditures for upgrades to its Microsoft software packages such as Windows, Word, Excel, and PowerPoint and its printer software drivers. Like CIS and GIS, these do not occur annually but as needed every few years. Because some IT upgrades are required each year, replacement of IT software is a regular recurring expenditure. What distinguishes GIS and CIS replacement projects is their higher cost. Even there, the cost of the GIS replacement project is similar to the \$513,820 replacement cost of the Outage Management

⁶ ibid

⁷ ibid

System (OMS) implemented in 2014.⁸ Spending on OMS and other major IT software packages continued at a high level in 2015 with \$366,032 being spent.⁹

In its policy document the OEB distinguished between discrete projects and annual capital programs.

“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.”¹⁰

The policy did not specifically address the situation where typical annual capital program is composed of discrete projects. Energy Probe is concerned that if Burlington Hydro’s interpretation is accepted it would mean that to obtain ICM funding all a distributor would need to do is to break up its annual capital spending program into discrete projects and meet the materiality test for each discrete project.

For materiality, Burlington Hydro is relying on its interpretation of OEB’s decision in the EB-2017-0024 Alectra Utilities case that allegedly established 1% of the overall capital budget as the project specific materiality threshold.¹¹ Energy Probe disagrees with that interpretation of the EB-2017-0024 decision.

Inclusion in Base Rates

Burlington Hydro claims that rates based on its last COS rebasing application, EB-2013-0115, did not include capital expenditures for the CIS and GIS replacement projects and that therefore the projects meet the Inclusion in Based Rates test of ICM eligibility criteria. Energy Probe disagrees with that conclusion. Although there were no specific expenditures in the General Plant category for these two projects in EB-2013-0115, there was money for IT software replacement.

⁸ EP-1

⁹ *ibid*

¹⁰ EB-2014-0219, New Policy Options for the Funding of Capital Investments: The Advanced Capital Module, p 13

¹¹ SEC-3

Under Price Cap IR, distributors are free to spend money as needed to provide service to ratepayers without approval of specific projects by the OEB. The distributors have the incentive to find capital efficiencies and to manage spending by deferring projects or by reallocating funds from one category to another. Burlington Hydro appears to have done that with other categories of spending where actual expenditures in several categories of spending varied greatly over the years from what was approved in EB-2013-0115¹². It should be able to manage spending to accommodate the CIS and GIS replacement projects.

Prudence

Burlington Hydro claims that its proposed IT replacement projects are prudent because “Burlington Hydro’s decision to incur the amounts represent the most cost-effective option for rate payers”¹³ and points to its Project Summaries to support its claim.

CIS Project Summary¹⁴ presents the analysis of options that Burlington Hydro considered in making its CIS replacement decision. It considered upgrading the existing CIS as Option 1, replacing it with a new Tier 2 CIS as Option 2, and replacing it with a new Tier 1 CIS in a shared services model with other LDC’s as Option 3. It explained why Option 3 was rejected.

“Most of the solutions proposed were not suitable to meet the consortium's joint needs. Although the Two Tier 1 solutions appeared to meet BHI’s functional needs, they were complex to implement and operate, and neither solution was the most cost effective option for BHI and its customers.”¹⁵

Energy Probe wonders why Option 3, which would have had several distributors sharing a CIS was not explored further. Burlington claims that it was because Tier 1 CIS systems are more costly than Tier 2, which was ultimately selected.¹⁶ It is not clear from the evidence why a shared services model was not considered using a Tier 2 CIS system. It is also not clear why

¹² Exhibit 1, Tables 28-32, pages 47-51

¹³ Exhibit 1, page 47

¹⁴ Appendix I

¹⁵ Ibid, page 3

¹⁶ EP-4, page 5

outsourcing of CIS was not one of the Options. As the project has started and will be completed in early 2020 it is too late for the OEB to influence Burlington Hydro's decision.¹⁷

Similarly, the GIS project is now complete. It "went live on January 13th, 2020".¹⁸ The OEB is also precluded from influencing the GIS decision. Burlington Hydro claims that the GIS project will rectify "the compatibility issues of its previous GIS, which impacted operational efficiency" yet there will be "no savings in the form of cost reductions to customers".¹⁹ If operational efficiency was impacted with the old GIS system, then there must have been costs of that impact reflected in OM&A. If part of the justification is improvement in operational efficiency, then there should be OM&A savings.

It is disrespectful of the OEB's regulatory process to request approval of ICM funding after all key decisions have been made and the money spent.

Submitted on behalf of Energy Probe by its consultant,

Tom Ladanyi

TL Energy Regulatory Consultants Inc.

¹⁷ SEC-4

¹⁸ SEC-5

¹⁹ Ibid