Ontario Energy Board | Commission de l'énergie de l'Ontario

Ontario

BY EMAIL

January 13, 2021

Christine E. Long
Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4

Dear Ms. Long:

**Re: Niagara Peninsula Energy Inc. (Niagara Peninsula Energy)
Application for 2021 Electricity Distribution Rates
Ontario Energy Board File Number: EB-2020-0040**

In accordance with the OEB correspondence dated January 6, 2021, please find attached OEB staff's submission on the settlement proposal in the above noted proceeding. Niagara Peninsula Energy and all intervenors have been copied on this filing.

Yours truly,

Original Signed By

Donald Lau
Project Advisor – Electricity Distribution: Major Rate Applications & Consolidations

Attach.

ONTARIO ENERGY BOARD

STAFF SUBMISSION ON SETTLEMENT PROPOSAL

2021 ELECTRICITY DISTRIBUTION RATES

Niagara Peninsula Energy Inc.

EB-2020-0040

January 13, 2021

INTRODUCTION

Niagara Peninsula Energy Inc. (Niagara Peninsula Energy) filed a cost of service application with the Ontario Energy Board (OEB) on August 12, 2020 under section 78 of the *Ontario Energy Board Act*, *1998,* seeking approval for changes to the rates that Niagara Peninsula Energy charges for electricity distribution, to be effective January 1, 2021.

The OEB issued an approved issues list for this proceeding on December 4, 2020. A settlement conference was held from December 9 to 11, 2020 and Niagara Peninsula Energy filed a settlement proposal setting out an agreement among all the parties to the proceeding on January 7, 2021. The parties to the settlement proposal were Niagara Peninsula Energy and the approved intervenors in the proceeding: School Energy Coalition, Vulnerable Energy Consumers Coalition, Distributed Resource Coalition, and Hydro One Networks Inc. (Hydro One). The settlement proposal represents a full settlement of all issues in Niagara Peninsula Energy's application.

For a typical residential customer with a monthly consumption of 750 kWh, the total bill impact under the filed settlement proposal is an increase of $1.79 per month before taxes or 1.2%.

This submission is based on the status of the record at the time of the filing of Niagara Peninsula Energy's settlement proposal and reflects observations that arise from OEB staff's review of the evidence and the settlement proposal. It is intended to assist the OEB in deciding upon Niagara Peninsula Energy's application and the settlement proposal.

Settlement Proposal

OEB staff has reviewed the settlement proposal in the context of the objectives of the *Renewed Regulatory Framework*[1], the *Handbook for Utility Rate Applications*[2], applicable OEB policies, relevant OEB decisions, and the OEB's statutory obligations. OEB staff submits that the settlement proposal reflects a reasonable evaluation of the distributor's planned outcomes in this proceeding, appropriate consideration of the relevant issues, and ensures that there are sufficient resources to allow Niagara

[1] Renewed Regulatory Framework for Electricity Distributors: A Performance-Based Approach, October 18, 2012
[2] Handbook for Utility Rate Applications, October 13, 2016

Peninsula Energy to achieve its identified outcomes in the five years of the plan from 2021 to 2025.

OEB staff further submits that the explanations and rationale provided by the parties support the settlement proposal and that the outcomes arising from the OEB's approval of the settlement proposal would reflect the public interest and would result in just and reasonable rates for customers.

Below, OEB staff provides specific submissions on the issues established by the OEB:

- Issue 1.0 – Planning
    - Issue 1.1 - Capital
    - Issue 1.2 - Operating, Maintenance, and Administration
- Issue 2.0 - Revenue Requirement
- Issue 3.0 - Load Forecast, Cost Allocation, and Rate Design
- Issue 4.0 - Accounting
- Issue 5.0 - Other
    - Issue 5.1 - Are the Specific Service Charges, Retail Service Charges, and Pole Attachment Charge appropriate?
    - Issue 5.2 - Is it appropriate to align Niagara Peninsula Energy's rate year to its fiscal year with rates changing from May 1 to January 1 with a proposed effective date of January 1, 2021 for 2021 rates?
    - Issue 5.3 – What is the appropriate time frame for Niagara Peninsula Energy to adjust its current capital structure to be more aligned with the OEB's deemed structure for regulated electricity utilities?
    - Issue 5.4 – Is the incentive-based compensation for executives appropriately aligned to improve Niagara Peninsula Energy's ranking relative to its peers in Ontario (on a cost per customer basis or a comparable metric)?
    - Issue 5.5 – Is Niagara Peninsula Energy's methodology for deriving the capitalized percentage of labour and overhead on capital projects appropriate and justified relative to its peers in Ontario?

Issue 1.1 Capital

Niagara Peninsula Energy proposed a total net capital expenditure of $15.37 million for the 2021 test year. The largest areas of capital investments are related to the additional switchgear at Kalar TS, system reinforcements for new connections, capital contribution to Hydro One for Stanley TS, feeder rebuilds, and asset replacement.

For the purposes of the settlement of all issues in this proceeding, the parties have agreed to a reduction of $2.57 million in capital expenditures for the test year.

OEB staff submits that the reduction of $2.57 million in capital expenditures is reasonable and notes that the settlement proposal stated that the reduction depicts a more balanced pacing of Niagara Peninsula Energy's capital work during its Distribution System Plan (DSP) period (2021 to 2025). Niagara Peninsula Energy's average net capital expenditure between 2022 to 2025 before the settlement proposal was $12.12 million. In the settlement proposal, the 2021 net capital expenditure after the reduction is $12.80 million and the average net capital expenditure between 2022 to 2025 is $12.84 million. OEB staff submits that the reduced 2021 amount better paces Niagara Peninsula Energy's net capital expenditures over the DSP period. The projects that Niagara Peninsula Energy deferred to future years were all system renewal projects and based on Niagara Peninsula Energy's capital investment prioritization[3], it has deferred its lowest priority projects. OEB staff submits that the deferred projects are reasonable.

OEB staff also notes that the historical average net capital expenditure between 2015 to 2020 is $11.70 million and the settlement amount of $12.80 million is reasonable as compared to historical actuals.

Issue 1.2 Operating, Maintenance, and Administration (OM&A)

Niagara Peninsula Energy proposed a total OM&A spending of $20.38 million for the 2021 test year. Niagara Peninsula Energy attributed this increase to new positions including a Human Resources assistant, Regulatory Compliance and Finance Manager, and transition of conservation and demand management (CDM) employees to a communications coordinator, customer engagement manager, and key account coordinator role. Niagara Peninsula Energy also had increases in meter reading. With the transfer of CDM employees to other departments, Niagara Peninsula Energy confirmed that none of the positions will assist with the delivery of any specific CDM activities in 2021.

The parties agreed to an OM&A envelope reduction of $650,000 to Niagara Peninsula Energy's proposed OM&A. The revised OM&A amount results in an increase of 22.7% from the 2015 actual OM&A spending, or an average yearly increase of 3.78%. Niagara

[3] EB-2020-0040, Exhibit 2 – Table 5-49 Material Investments Allocated for 2021.

Peninsula Energy is also in Cohort 3 as per the *Empirical Research in Support of Incentive Rate-Setting: 2019 Benchmarking Update.*[4]

OEB staff submits that the reduction of $650,000 in OM&A is reasonable. It is an overall envelop reduction and the parties have provided a breakdown of the reduction in Table 1.2A – Summary of OM&A Expenses with Variance of the settlement proposal.

OEB staff also notes that the OEB's current policy is that costs attributable to the delivery of CDM programs (i.e. staff labour dedicated to such programs) must not be included in the revenue requirement to be recovered through distribution rates.[5] OEB staff notes that it does not oppose the key accounts coordinator position in OM&A specifically, as the role does not relate to former Conservation First Framework (CFF) programs nor overlap with the CDM activity during the CFF wind-down period but that the overall reduction to OM&A is reasonable.

Issue 2.0 Revenue Requirement

The parties have agreed to a service revenue requirement of $36.93 million and a base revenue requirement of $33.96 million. This reflects a reduction of $2.57 million in net in-service additions and $650,000 in OM&A. This also reflects updates to the depreciation, cost of capital, other revenue, working capital allowance, and payment in lieu of taxes. The table below shows the change in revenue requirement between Niagara Peninsula Energy's application and the settlement proposal. OEB staff has no concerns with the revenue requirement calculations.

[4] Report to the Ontario Energy Board – "Empirical Research in Support of Incentive Rate-Setting: 2019 Benchmarking Update", prepared by Pacific Economics Group LLC., August 2020

[5] *Chapter 2 Filing Requirements for Electricity Distribution Rate Applications – 2020 Edition for 2021 Rate Applications*, May 14, 2020, section 2.4.6.

Table 1 – Niagara Peninsula Energy's Revenue Requirement

	Application (a)	Interrogatories (b)	Variance (c) = (b)-(a)	Clarification Responses (d)	Variance (e) = (d)- (b)	Settlement (f)	Variance (g) = (f) - (d)
Revenue Requirement							
OM&A (excluding Property Tax & Leap)	20,075,507	20,075,507	-	20,075,507	-	19,425,507	(650,000)
Taxes other than income	263,095	263,095	-	263,095	-	263,095	-
LEAP	45,408	45,408	-	45,408	-	45,408	-
Depreciation and Amortization	8,442,650	8,484,003	41,353	8,484,003	-	8,463,011	(20,992)
Total	28,826,660	28,868,013	41,353	28,868,013	-	28,197,021	(670,992)
Regulated Return on Capital	8,679,929	8,463,790	(216,139)	8,463,790	-	8,342,809	(120,981)
Income Taxes Grossed Up	334,085	346,771	12,686	346,771	-	394,517	47,746
Service Revenue Requirement	37,840,674	37,678,574	(162,100)	37,678,574	-	36,934,347	(744,227)
Less Other Revenue	2,971,337	2,976,584	5,247	2,981,974	5,390	2,971,502	(10,472)
Base Revenue Requirement	34,869,337	34,701,990	(167,347)	34,696,600	(5,390)	33,962,845	(733,755)
Distribution Revenue at Current rates	32,474,115	32,460,527	(13,588)	32,460,527	-	32,460,527	(1)
Revenue Deficiency	2,395,222	2,241,463	(153,759)	2,236,073	(5,390)	1,502,319	(733,754)
Gross Revenue Deficiency	**3,258,806**	**3,049,610**	**(209,196)**	**3,042,276**	**(7,333)**	**2,043,971**	**(998,305)**

PILS Expense- Accelerated Capital Cost Allowance

Bill C-97 introduced the Accelerated Investment Incentive program (AIIP), which provides for a first-year increase in capital cost allowance (CCA) deductions on eligible capital assets acquired after November 20, 2018.

In its July 25, 2019 letter (CCA Letter) titled Accounting Direction Regarding Bill C-97 and Other Changes in Regulatory or Legislated Tax Rules for Capital Cost Allowance, the OEB provided accounting direction on the treatment of the impacts from accelerated CCA resulting from the AIIP. The OEB established a separate sub-account of Account 1592 - PILs and Tax Variances, Sub-account CCA Changes to track the impact of any differences that result from the CCA change to the tax rates or rules that were used to determine the tax amount that underpins rates.

The Parties agreed that Niagara Peninsula Energy shall calculate the CCA differences that are accumulated in Account 1592 sub-account CCA changes from November 21, 2018 to December 31, 2020 by comparing the CCA on the actual capital additions in the respective periods under the legacy rule and the accelerated CCA under the AIIP. The calculated credit balance in the Account 1592 sub-account CCA changes of $651,987 represents the full revenue requirement impact of the application of the accelerated CCA as at December 31, 2020. The parties agreed that 100% of the revenue requirement impact is to be refunded to Niagara Peninsula Energy's ratepayers, rather than Niagara Peninsula Energy's originally proposed disposition method of 50/50 sharing between its shareholder and ratepayers. OEB staff takes no issue with this approach, given the CCA Letter states that “determinations as to the appropriate disposition methodology will be made at the time of each Utility’s cost-based application”. In addition, OEB staff notes that this approach has previously been proposed by another distributor and the OEB ultimately accepted that approach by virtue of approving the settlement proposal in that proceeding.[6]

The parties agree that the disposition of the balance in Account 1592 sub-account CCA Changes is to be achieved through the following method:

a) $238,188 of the principal balance in Account 1592, plus the carrying charges on the full principal amount of $651,987, is to be refunded through rate riders over a one-year period. $238,188 represents the PILs amounts embedded in Niagara Peninsula Energy’s rates that relate to the period November 20, 2018 to December 31, 2020. Niagara Peninsula Energy included $109,157 of PILs expenses in the 2015 test year in its last CoS rate application.[7] The 2019 and 2020 impacts are calculated using the full PILs expense embedded in rates ($109,157 for each year), and the 2018 impact has been prorated accordingly (November 20, 2018 to December 31, 2018, in the amount of $19,874).

b) The residual principal balance of $432,857 ($651,987 less $238,188) is to be refunded to ratepayers by reducing the 2021 test year’s PILs expense by $86,571, calculated as $432,857 divided by the expected five-year rate term. This proposed treatment is equivalent to the disposition of the principal balance of $432,857 through an Account 1592 rate rider over five years.

The CCA Letter also indicated that utilities were to reflect any impacts arising from CCA rule changes in their cost-based applications for 2020 rates and beyond and that the OEB may consider a smoothing mechanism to address any timing differences that could lead to volatility in tax deductions over the rate-setting term.

Niagara Peninsula Energy applied the accelerated CCA rules to its 2021 test year PILs calculation. As part of the settlement proposal, the parties agreed that there is no need for a smoothing mechanism to address the impacts of accelerated CCA over the rate-setting term. Instead, Niagara Peninsula Energy will continue to use Account 1592 –

[6] Hydro Ottawa 2021 Custom IR Decision and Order, EB-2019-0261, November 19, 2020.
[7] EB-2014-0096, May 14, 2015.

PILs and Tax Variances, Sub-account CCA Changes to address future CCA rule changes to account for the increase in PILs expenses during the eventual phase out of the AIIP, scheduled to begin after 2023. The PILs expense in the test year, prior to the reduction of $86,571 for the residual Account 1592 balance, is $494,303 (or $407,732 after the Account 1592-related reduction).

OEB staff notes that the approach agreed by the parties with respect to disposition of balances in Account 1592 sub-account CCA Changes (applying the accumulated balance as a reduction to the test year's PILs expense) is not typical. However, given that there is no rate impact between the approach agreed to in the settlement proposal and the more traditional approach to deferral and variance account dispositions, OEB staff does not object to the parties' agreed upon methodology.

The AIIP is scheduled to be phased out from 2024 to 2027. Niagara Peninsula Energy's continued use of the Account 1592 sub-account will capture the impact of differences that result from CCA rule changes, including the phasing out of accelerated CCA program. This would generally achieve the same intent as a smoothing mechanism.

Issue 3.0 Load Forecast, Cost Allocation, and Rate Design

Load Forecast

In the context of the settlement proposal, OEB staff does not have any concerns with the proposed load forecast of 1,284 GWh, 1,785,050 kW, and 71,529 customers and connections as shown in tables 3.1A and 3.1B of the settlement proposal. OEB staff submits that the agreed upon load and customer connection forecasts are appropriate.

Niagara Peninsula Energy included forecast conservation savings in the Persistent CDM Variable in the 2021 load forecast. These forecast savings include the persistence of 2019 program savings from the CFF in 2021. Niagara Peninsula Energy did not request a separate CDM manual adjustment to its load forecast. OEB staff submits that the forecast savings included in the Persistent CDM Variable in the 2021 load forecast are reasonable.

The parties agreed that Niagara Peninsula Energy would not seek use of a Lost Revenue Adjustment Mechanism Variance Account (LRAMVA) for the 2021 test year, or for any savings achieved in the years 2019 or 2020. In the context of the settlement proposal, OEB staff does not have concerns with the agreed upon CDM adjustments and proposed LRAMVA treatment.

New Embedded Distributor Rate Class

The parties agreed that Niagara Peninsula Energy would create a new Embedded Distributor Rate Class. Hydro One is the only embedded distributor with four points of supply. This rate class is proposed to capture all four points where Hydro One is embedded.

In interrogatories, Niagara Peninsula Energy confirmed that Hydro One owns and maintains all the assets associated with two of the embedded points[8] leaving Niagara Peninsula Energy responsible only for meter reading. At the other two, Hydro One owns the meters while Niagara Peninsula Energy owns the other distribution assets required to provide service.[9] These are currently billed as General Service > 50 kW customers. Where Hydro One owns all the assets, only the monthly charge is applied, and where Niagara Peninsula Energy owns the distribution assets, the points are billed as regular General Service > 50 kW customers.

OEB staff notes that although there are differences among the metering points with respect to cost causation and cost recovery, all four metering points are in the same rate class. If the four delivery points were different customers, the potential for cross-subsidization would need to be considered. In this instance, since all four delivery points serve the same customer, OEB staff submits that it is reasonable to include all of them in a single rate class.

In the context of the settlement proposal, OEB staff does not have any concerns with the proposal to create a new rate class for the embedded distributor.

Cost Allocation

As part of the settlement proposal, the parties accepted Niagara Peninsula Energy's cost allocation results as appropriate. Revenue-to-cost ratios for Unmetered Scattered Load, Street Lighting and the Embedded Distributor rate class are above the OEB's target ranges and are proposed to be reduced to 120%, the upper end of the policy

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[8] 7-HONI-2 b).
[9] 7-HONI-2 a).

range. The Residential rate class has the lowest revenue-to-cost ratio and is proposed to be increased to offset the reductions.

Table 2 – Niagara Peninsula Energy's Revenue-to-Cost Ratios

2021 Test Year				
Rate Class	Cost Ratio from Cost Allocation Model-Line 75 Tab O1 %	Proposed Revenue to Cost Ratios %	Board Target Low %	Board Target High %
Residential	94.54%	94.72%	85	115
General Service < 50 kW	116.47%	116.47%	80	120
General Service > 50 kW	108.91%	108.91%	80	120
Unmetered Scattered Load	126.99%	120.00%	80	120
Sentinel Lighting	97.84%	97.84%	80	120
Street Lighting	137.45%	120.00%	80	120
Embedded Distributor	131.26%	120.00%	80	120

In the context of the settlement proposal, OEB staff does not have any concerns with the cost allocation.

Rate Design

In the settlement proposal, the parties agreed that:

- The fixed charge for the new Embedded Distributor rate class would be set at the Minimum System with Peak Load Carrying Capability adjustment (commonly referred to as the ceiling).
- The fixed charge proportion for the General Service > 50 kW rate class would increase from 15.32% to 17.5%.
- For any other class except the Residential class, the fixed-variable proportion would be maintained, as it results in a fixed charge between the avoided costs (commonly referred to as the floor), and the ceiling.

OEB staff notes that after increasing the fixed charge proportion, the proposed fixed charge of $130.43 for the General Service > 50 kW class remains within the guidance provided by the cost allocation model of $79.91 floor to $154.42 ceiling.

In the context of the settlement proposal, OEB staff accepts the rate design as reasonable.

Issue 4.0 Accounting

Disposition of Deferral and Variance Accounts

In its pre-filed evidence, Niagara Peninsula Energy proposed to dispose of its Group 1 (credit of $1,180,988) and Group 2 and other (debit of $612,875) Deferral and Variance Account (DVA) balances as at December 31, 2019 (with some Group 2 DVAs including forecasted balances to December 31, 2020), as well as forecasted interest to December 31, 2020. As part of the settlement proposal, Niagara Peninsula Energy revised its proposal for the disposition of the Group 1 DVAs to a credit balance of $1,185,213 and Group 2 and other accounts to a debit balance of $820,693.

Overall, the revised disposition of Group 1 DVA balances has not changed materially from what was originally proposed. However, Niagara Peninsula Energy has reclassified an amount of $446,802 from Account 1588 RSVA Power to Account 1589 Global Adjustment. Niagara Peninsula Energy states in the settlement proposal that "NPEI updated the balances in Accounts 1588 –RSVA Power and 1589- RSVA –Global Adjustment to reflect the differences in actual line losses versus approved line losses related to the Non-RPP portion of Global Adjustment charges".[10] OEB staff supports this reclassification adjustment, as this treatment is in accordance with the Accounting Procedures Handbook and the accounting guidance issued in February 2019 for commodity accounts.[11]

Group 2 and other DVAs balances proposed for disposition in the settlement proposal increased by $207,836 from the amounts originally proposed, mainly driven by the following three changes:

a) Niagara Peninsula Energy withdrew its request to dispose of the cumulative actuarial gain of $398,469 recoded in Account 1508 sub-account Other Post Employment Benefits (OPEB) Deferral account
b) Niagara Peninsula Energy agreed to reduce the amount requested for disposition in Account 1508 sub-account OEB Cost Assessment by $64,247 (before carrying charges), to reflect the growth in the base amounts included in rates for over-time as a result of the annual IRM rate adjustment and customer and load growth[12]

[10] Settlement Agreement, page 38.
[11] Accounting Guidance Related to the Commodity Pass-through Accounts 1588 and 1589, February 21, 2019.
[12] Settlement Agreement, page 35.

c) Niagara Peninsula Energy agreed to increase the principal balance in Account 1592 sub-account CCA changes to a credit of $238,188, as discussed in the PILs expense section

OEB staff does not object to Niagara Peninsula Energy's withdrawing its request for the disposition of Account 1508 sub-account OPEB Deferral account. This account was established to track the accumulated actuarial gains/losses related to post employment benefit plans and amounts recorded may naturally fluctuate and offset over time. The gain in 2015 was largely offset in 2017 and 2019. OEB staff submits that it is reasonable to conclude that further offsetting may occur, and that disposition of the accumulated balances is not warranted at this time.

OEB staff takes no issue with the other changes to Group 2 Accounts proposed by the parties in the settlement agreement.

Issue 5.1 Are the Specific Service Charges, Retail Service Charges, and Pole Attachment Charge appropriate?

Niagara Peninsula Energy is not requesting to change any of its specific service charges and does not have a utility specific wireline pole attachment charge and uses the OEB approved generic charge for pole attachments. The OEB issued an Order for the Pole Attachment Charge on December 10, 2020, which suspended the 2021 inflationary increase. The current charge of $44.50 remained in effect as of January 1, 2021 on an interim basis, until further notice.[13] Niagara Peninsula Energy has adopted the OEB's wireline pole attachment charge as per the decision on December 10, 2020.

The OEB issued its Decision and Rate Order on the Retail Service Charges on December 3, 2020, which adjusted the 2021 Retail Service Charges by inflation.[14] Niagara Peninsula Energy has adopted the OEB's generic Retail Service Charges established on December 3, 2020.

OEB staff submits that updating the Retail Service Charges by inflation and not changing the Pole Attachment Charge is appropriate.

[13] EB-2020-0288 Order, December 10, 2020
[14] EB-2020-0285 Decision and Rate Order, December 3, 2020

Issue 5.2 Is it appropriate to align Niagara Peninsula Energy's rate year to its fiscal year with rates changing from May 1 to January 1 with a proposed effective date of January 1, 2021 for 2021 rates?

The parties have agreed to an effective date and implementation date of no later than February 1, 2021. Niagara Peninsula Energy filed this application on August 18, 2020, approximately four months after the established deadline for January 1 filers. Niagara Peninsula Energy also requested and was granted a two-day delay in filling the settlement proposal.

OEB staff notes that on April 17, 2020, Niagara Peninsula Energy filed a letter seeking an extension until August 31, 2020 to file its application for January 1 rates. The OEB granted Niagara Peninsula Energy's request and stated that "The OEB anticipates that the OEB panel hearing the application will take into consideration any COVID-19 related delays in setting the effective date for NPEI's 2021 rates."[15]

Given that the four-month delay was a result of the COVID-19 pandemic and there were minimal delays in the proceeding, OEB submits that the effective date of no later than February 1, 2021 is reasonable.

Issue 5.3 – What is the appropriate time frame for Niagara Peninsula Energy to adjust its current capital structure to be more aligned with the OEB's deemed structure for regulated electricity utilities?

Niagara Peninsula Energy's debt-to-equity ratio for 2019 is 0.99 as compared to the OEB's deemed debt-to-equity ratio of 1.5. Niagara Peninsula Energy agreed to align its current capital structure more to the OEB's deemed structure within the next six to ten years. Niagara Peninsula Energy stated that it will likely be incurring large capital expenditures beyond January 1, 2026, which require long-term financing. The parties also agreed that that the current low interest rate environment should be a factor to be considered in the timing of moving toward the OEB's deemed structure.

[15] OEB Letter – Niagara Peninsula Energy Inc's Request for Extension to the Filing of its Cost of Service Application for 2021 Rates, April 20, 2020

OEB staff notes that in interrogatories Niagara Peninsula Energy stated that it must ensure compliance with its debt covenants to all three of its creditors for its long-term financing. The debt covenants require a maximum capitalization ratio of 0.60.[16]

OEB staff submits that Niagara Peninsula Energy's current capital structure is reasonable, considering the long-term financing it anticipates beyond 2026 and ensuring compliance with Niagara Peninsula Energy's debt covenants.

Issue 5.4 – Is the incentive-based compensation for executives appropriately aligned to improve Niagara Peninsula Energy's ranking relative to its peers in Ontario (on a cost per customer basis or a comparable metric)?

The parties accepted Niagara Peninsula Energy's incentive-based compensation is appropriately aligned to improve its ranking relative to its peers in Ontario. The settlement proposal states that "The Parties taking a position on this issue accept that NPEI's incentive based compensation metrics, as adjusted in this Settlement Proposal, are appropriately aligned to improve Niagara Peninsula Energy's ranking relative to its peers in Ontario and are reasonable."

Niagara Peninsula Energy agreed to strengthen its internal Balance Scorecard which is used for the purposes of executive incentive-based compensation by using total OM&A costs for the OM&A cost per customer metric and to set its annual target for the metric that encourages improvement relative to its peers. Niagara Peninsula Energy also agreed to add the "SAIDI and SAIFI due to defective equipment" metrics in the internal Balance Scorecard and set the 2021 targets to the average of the 2015 to 2019 period. The weighting of these metrics will be no less than 7% each on the internal Balance Scorecard. Niagara Peninsula Energy will also set its annual target for the metric such that it encourages improvement relative to its peers.

Based on the Customer Engagement Final Report, Niagara Peninsula Energy's customers are most concerned with reasonable distribution rates and reliable service.[17] The changes to Niagara Peninsula Energy's internal Balance Scorecard are aligned to improve its ranking relative to its peers in Ontario and also aligned with customers' top priorities. OEB staff submits that the changes to the internal Balance Scorecard used for the purpose of executive incentive-based compensation is reasonable.

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[16] EB-2020-0040, Interrogatories Responses, November 19, 2020 (1-Staff-6)
[17] EB-2020-0040 - Exhibit 1 – Appendix 1-25 NPEI's Customer Engagement Final Report, pp. 31-32

Issue 5.5 – Is Niagara Peninsula Energy's methodology for deriving the capitalized percentage of labour and overhead on capital projects appropriate and justified relative to its peers in Ontario?

The parties accepted that Niagara Peninsula Energy's methodology for deriving the capitalized percentage of labour and overhead on capital projects is justified and appropriate.

The settlement proposal states that Niagara Peninsula Energy's approach is in accordance with its Capitalization Policy, which is further in accordance with IFRS (International Financial Reporting Standards). Niagara Peninsula Energy's capitalization rates are reviewed annually with its outside auditors to ensure compliance. The parties note that there is no central source of information that would allow review of Niagara Peninsula Energy's methodology as compared to its peers in Ontario.

In response to an interrogatory from OEB staff, Niagara Peninsula Energy stated that data pertaining to Niagara Peninsula Energy's peers are not available from the OEB's yearbook and provided a comparison of the overhead burden capitalization rates in Appendix 2-D with three distributors who have recently filed 2021 cost-based rate applications: Waterloo North Hydro Inc. (Waterloo North), Oshawa PUC Networks Inc. (Oshawa PUC) and Halton Hills Hydro Inc. (Halton Hills).[18] Niagara Peninsula Energy stated that its overhead burden rates range from 13% to 14% between 2015 and 2021 while for the same periods Waterloo North's overhead burden rates range from 15% to 19%, Oshawa PUC's overhead burden rates range from 22% to 24% and Halton Hills' overhead burden rates range from 17% to 19%.[19] Niagara Peninsula Energy further explained that both Oshawa PUC and Halton Hills include material overhead allocations.[20]

OEB staff notes that the 2021 Filing Requirements for Electricity Distribution Rate Applications (Filing Requirements) do not require distributors to file information with respect to the capitalized percentage of labour and overhead on capital projects specifically. The Filing Requirements require distributors to identify the burden rates related to the capitalization of costs of self-constructed assets which are filed in

[18] Response to Interrogatory 1-Staff-7.
[19] *ibid.*
[20] *ibid.*

Appendix 2-D. OEB staff notes that the capitalization percentage of labour and overhead is a subset of the information filed in Appendix 2-D, which may or may not be separately disclosed by distributors. Furthermore, OEB staff notes that the information provided by Niagara Peninsula Energy in its response to OEB staff's interrogatory is the overall burden rate instead of the capitalization of labour and overhead.

OEB staff takes no issue with Niagara Peninsula Energy's methodology for deriving the capitalized percentage of labour and overhead on capital projects, as Niagara Peninsula Energy has confirmed that its capitalization methodology complies with IFRS and it has not amended that policy since its last rebasing year.

All of which is respectfully submitted