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February 19, 2021

VIA E-MAIL

Ms. Christine Long
Registrar and Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th floor
P.O. Box 2319
Toronto, ON M4P 1E4

Dear Ms. Long:

Re: EB-2020-0041 Newmarket-Tay Power Distribution Ltd.2021 Electricity Distribution Rates Final Submissions of Vulnerable Energy Consumers Coalition (VECC)

Please find enclosed the final submissions of VECC in the above-noted proceeding. We have also directed a copy of the same to the Applicant.
Yours truly,

(Original Signed By)

John Lawford
Counsel for VECC

Copy to: Michelle Reesor, Regulatory Manager, Newmarket-Tay Power Distribution Ltd.

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EB-20-0041

Newmarket-Tay Power Distribution Ltd.

Application for electricity distribution rates effective May 1, 2021

VECC Submissions February 18, 2021

Newmarket-Tay Power Distribution Ltd. (NT Power) filed an incentive rate-setting mechanism application with the Ontario Energy Board (OEB) on November 23, 2020 under section 78 of the Ontario Energy Board Act, 1998, S.O. 1998, c. 15, (Schedule B) seeking approval for changes to its electricity distribution rates to be effective May 1, 2021.

VECC's submissions are in relation to Newmarket-Tay Power's request for incremental capital funding and to refund to customers the balance in Account 1576 – Accounting Changes under CGAAP.

Incremental Capital Funding

NT Power seeks approval of the proposed incremental revenue requirement recovery, related to 2015 and 2020 true-up capital contribution payments to Hydro One Networks Inc. (HONI) related to the Holland TS, through rate riders effective May 1, 2021.

For the reasons discussed below, VECC submits that the OEB should deny NT Power's ICM request for recovery of the 2015 True-Up payment related to Holland TS and approve the 10-year True-Up payment to be made in 2021.

Background

On November 22, 2005, the OEB ordered that the York Region Utilities serving York Region, i.e., Newmarket Hydro (the predecessor to NT Power), Aurora Hydro Connections Limited, Power Stream Inc. and HONI (Distribution) and HONI (Transmission) to implement the Holland Junction Transformer Station (Holland TS).

Hydro One constructed Holland TS, a 230/44kV, 75/100/125 MVA TS, to supply NT Power and HONI's distribution business and went into service in May 2009. Holland TS was required to relieve the overloading at Armitage TS, which served the York Region Utilities, including NT Power and HONI's distribution business.[1]

NT Power and HONI entered into a Connection and Cost Recovery Agreement (CCRA) on February 8, 2008. As per the CCRA, NT Power was required to make an initial capital contribution to HONI based on the difference between the total capital cost of constructing Holland TS and a projection of revenue earned. Due to initial forecasted loading onto Holland TS, no capital contribution was required from NT Power. The CCRA provides that HONI perform a true-up on the fifth, tenth and fifteenth year anniversaries of the in-service date to settle any excesses or shortfalls related to the demand forecast.

[1] Manager's Summary P43

On the fifth year anniversary, HONI determined a revenue shortfall of $9,243,400[2] largely due to the economic downturn in 2008 which resulted in actual load less than forecasted load. HONI issued an invoice in this amount to NT Power on November 15, 2015 and NT Power made the payment on December 15, 2015.

NT Power did not plan ahead and seek incremental revenue from ratepayers in 2015 or 2016 for the Holland TS 5-year True-Up. The first time Holland TS is seeking incremental revenue from ratepayers for the Holland TS 5-year True-Up is now. This request coincides with the 10-year True-Up of Holland TS where HONI has provided an estimate of $6,100,00 plus HST[3]. NT Power expects to make the second True-Up payment in early 2021. The two Holland TS True-Ups total $16,136,400 ($14,280,000 + $1,856,400 HST).[4]

NT Power is seeking ICM funding of $6,396,855 plus HST (undepreciated amount) for the First True-UP and $6,100,000 plus HST for the Second True-Up.

NT Power last rebased for 2010 rates[5] and was scheduled to file a cost of service (CoS) application for rates effective May 1, 2014. NT Power did not file an application to update 2011 rates as its rates for 2010 were effective January 1, 2011. For the 2012 rate year, NT Power applied for adjustments under 3rd generation Incentive Regulation Mechanism (IRM). In January of 2013, NT Power applied to the OEB to delay rebasing by one year for rates effective January 1, 2015 and selected the Annual IR Index option to adjust its 2014 rates. Annual IR Index methodology provides for a mechanistic and formulaic adjustment to distribution rates and charges in the period between CoS applications.

NT Power did not rebase for 2015 rates as planned. In a letter dated February 21, 2014 to the OEB, NT Power selected the Annual IR Index method for setting its 2015 rates.

First True-Up Payment to HONI (2015)

2014 was the five-year anniversary date for HONI's Holland TS True-Up calculation. NT Power indicates it would have been made aware of the First True-Up around 2014-2015 through the CCRA 5-year True-Up with Hydro One.[6] Having entered into a CCRA Agreement with HONI, VECC submits it's reasonable to expect that NT Power was aware of the true-up schedule and would be tracking the 2014 anniversary date and given the economic downtown since 2008, should have anticipated a true-up payment to HONI was forthcoming. NT Power indicates that by the time the station was constructed and in-service (which was 2009), the Town of Newmarket experienced an economic downturn, similar to the rest of the province which resulted in the loss of customers and about a 10% (13 MW) decrease in system load. Since then, NT Power has not experienced the type of load growth that was seen in the years prior to the construction of the new station.[7] At the time when the load forecast was provided to Hydro One for the CCRA, NT Power was experiencing an average yearly load growth of 3.5%. For the Second True-Up, a more conservative load forecast (0.7% yearly growth) is being used to take into account the decelerated

[2] $8,180,000 + $1,063,400 HST = $9,243,400
[3] $6,100,000 + $793,000 HST = $6,893,000
[4] Manager's Summary P46
[5] EB-2009-0269
[6] CCC IR-3
[7] Staff IR-20 (c)

load growth experienced since the original CCRA was executed.[8] By the 2014 anniversary date, these changes in yearly growth, load forecast and the impacts on Holland TS would have been evident to NT Power.

On August 5, 2015 NT Power filed an Annual IR application for changes to its distribution rates to be effective September 1, 2015 and the OEB approved rates effective January 1, 2016. VECC submits NT Power had every opportunity in 2015 to consider its circumstances and select a CoS application as the means to update 2015 distribution rates and recover the revenue for a very significant first true-up Payment to HONI, especially given that that an ACM/ICM approach is not available to distributors filing under the Annual IR plan.[9] NT Power indicates the $8,180,000 True-Up to Hydro One as a percentage of 2015 capital expenditures is 174.8%.[10] It's unclear why NT Power chose not to rebase.

On August 23, 2018, NT Power was granted OEB approval (MAADs decision)[11] to purchase and amalgamate with Midland Power Utility Corporation (Midland Power). In the MAADs decision, NT Power was granted a 10-year deferral period to maintain two separate rate zones, NT Power and Midland Power, until the rates are rebased. NT Power remains on the Annual IR Index method to set rates.

The OEB has determined that distributors who are party to a MAADs transaction and are operating under an Annual IR plan have the option to use the Incremental Capital Module ("ICM") during the deferred rebasing period.[12] VECC takes no issue with NT Power's ICM request related to the 10-year true-up with HONI and submits the request is consistent with the intent of the ICM option for a consolidated utility to address capital investment needs that arise during a deferred rebasing period. VECC does take issue with NT Power's request to bring forward recovery of a previous payment to HONI that was five years ago and pre-merger, as part of an ICM for the consolidated entity during a deferred rebasing period, when NT Power had every opportunity to rebase and recover the payment, given its significance to the utility at the time and the fact that NT Power was due to rebase in 2014.

In the merger Decision dated August 23, 2018, close to three years after the First True-Up payment to HONI was made, the OEB stated it does not consider the financial viability of NT Power to be at risk because of the proposed acquisition.[13] For the years 2015 to 2019, NT Power has achieved a rate of return within 300 basis points of the Board Deemed Rate of Return of 9.66%, except for 2017.[14]

Further, the OEB accepted NT Power's estimated level of projected savings of $9.5 million[15] over the ten-year rebasing period. Specifically, the OEB accepted that synergies resulting from the merger, including reductions in management and staff through natural attrition, reduced governance costs, the elimination of duplicate memberships and professional fees, reduced fleet maintenance, and reduced

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[8] Staff IR-20 (c) & (e)

[9] Report of the Board: New Policy Options for the Funding of Capital Investments: The Advanced Capital Module September 18, 2014

[10] Manager's Summary P 46

[11] Decision and Order, EB-2017-0269, August 23, 2018

[12] EB-2014-0138 – Report of the Board on Rate-Making Associated with Distributor Consolidation, March 26, 2015, (Consolidation Report), P 9-10, 12

[13] Decision and Order, EB-2017-0269, August 23, 2018, P15

[14] Manager's Summary P45

[15] Decision and Order, EB-2017-0269, August 23, 2018, P14

consulting costs will result in lower cost structures that ultimately benefit customers.[16] VECC submits the merger savings offset the impact of the 2015 HONI payment.

To calculate the ICM rate rider for 2015, NT Power has amortized the maximum eligible capital amount from 2015 to 2020. In VECC's view this still amounts to retroactive rate making. It is not appropriate to bring forward a past expenditure as part of an ICM of a merged entity that is designed to address capital investments that arise during a deferred rebasing period.

In considering the above, VECC submits the OEB should deny NT Power's ICM request to recover the First True-Up Payment to HONI as it is not eligible for ICM funding.

Second True-Up Payment to HONI (2020)

NT Power seeks ICM funding of $6,100,000 plus HST for the second True-Up Payment.

Distributors proposing amounts for recovery by way of an ACM or ICM must meet all three of the following criteria, and their sub-parts.

Criteria	Description
Materiality	A capital budget will be deemed to be material, and as such reflect eligible projects, if it exceeds the Board-defined materiality threshold. Any incremental capital amounts approved for recovery must fit within the total eligible incremental capital amount (as defined in this ACM Report) and must clearly have a significant influence on the operation of the distributor; otherwise they should be dealt with at rebasing. Minor expenditures in comparison to the overall capital budget should be considered ineligible for ACM or ICM treatment. A certain degree of project expenditure over and above the Board-defined threshold calculation is expected to be absorbed within the total capital budget.
Need	The distributor must pass the Means Test (as defined in this ACM Report). Amounts must be based on discrete projects, and should be directly related to the claimed driver. The amounts must be clearly outside of the base upon which the rates were derived.
Prudence	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 least initial cost) for ratepayers.

[16] Decision and Order, EB-2017-0269, August 23, 2018, P10

Materiality

NT Power's ICM funding request for the Second True-Up has a significant impact on the operation of NT Power.   NT Power indicates the $6,100,000 payment to HONI represents 95.4% of the forecast capital expenditures in 2021 excluding true-ups.[17] The Second True-Up amount exceeds the Board-defined materiality threshold and fits within the total eligible capital amount.[18]

As part of the EB-2017-0269 MAADs application, NT Power and Midland Power agreed to file a DSP for the consolidated entity by December 2020 and the DSP was filed in this proceeding.

VECC notes the average capital expenditures between 2020 to 2024 is $7.27 M (excluding the CRRA true-up) whereas the historical average actual capital expenditure is $4.09 M between 2016 and 2019, an increase of 77%. NT Power explains the increase in spending is for the most part based on a recent Asset Condition Assessment (ACA) that shows that NT Power's historical asset spending was unsustainable in maintaining asset condition and NT Power has increased asset replacement to levels under the recommendation of the ACA to provide a balance between maintaining system infrastructure and pacing required system investments.

In 2019, NT Power spent $1.3 M on System Renewal capital and $3.080 M in total. [19] In 2020, NT Power's forecast spend is $3.375 M on System Renewal and $7.111 M in total. NT Power was unable to provide 2020 actuals within the interrogatory deadline.[20] In 2021, NT Power proposes to spend $7.27 M in total (excluding the CCRA true-up), an increase of 36% of the last year of actuals (2019).

From 2015 to 2019, NT Power indicates it took an approach to defer some of its capital program due to large customer driven projects such as the VIVA rapid bus project and the Yonge Street revitalization. This approach is not sustainable in perpetuity and NT Power indicates it needs to begin increasing capital spending to close the gap between the required investment as highlighted in the ACA and the current capital program.[21] Given that NT Power is required to make a significant payment to HONI in 2021 VECC submits the approach for 2015 to 2019 to defer some capital sending should apply to 2021. VECC further submits the ACA and the DSP have not been appropriately tested to conclude that NT Power's proposed significant increase in spending levels (77%) over the 2020 to 2024 period are reasonable compared to 2016 to 2019 levels.

In considering the above, VECC recommends that the OEB decrease NT Power's forecast 2021 capital budget by 10% to allow for better pacing of capital investments in 2021 to offset the significant payment to HONI in 2021. A 10% reduction would reduce the Distribution Plan from CAPEX from $12,496,885 to $11,247,161 resulting in a maximum eligible incremental capital amount in 2021 of $5,105,550.

Need

The ICM is not available for incremental funding if a distributor's regulated return exceeds 300 basis points above the deemed return on equity embedded in the distributor's rates. NT Power's 2019

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[17] Manager's Summary P46 Table 3
[18] Manager's Summary P52 table 7
[19] DSP table 49
[20] VECC-2
[21] VECC-3 (g)

achieved ROE of 6.94% (latest actuals) is 2.72 basis points lower than the deemed ROE of 9.66%. In 2018, the achieved rate of return was 11.19%.[22] VECC submits NT Power passes the Means Test.

VECC submits the Second True-Up to HONI is a discrete activity in 2021 that is clearly outside of the base upon which the rates were derived in 2010. NT has adequately justified the need for the 2021 payment based on the OEB's direction with respect to the construction of Holland TS, the CCRA agreement in place with HONI with set anniversary true-up dates and a forecast load forecast that did not materialize.

Prudence

For the reasons explained in evidence, VECC agrees with NT Power that constructing the Holland Junction Proposal was the most cost-effective solution to meet the supply shortage in York Region.[23]

As per the CCRA, the amount of load to be moved to Holland TS by NT Power to address the overload at Armitage TS (34 MW) and PowerStream Inc.'s new feeder position at Armitage TS (21 MW) is 55 MW.[24] The forecast load at Holland TS by the fifth anniversary date in 2014 was 51 MW and the forecast load at the tenth and fifteenth anniversaries is 60.5 MW.[25] Appendix 12 demonstrates the shortfall in meeting the agreed to forecasts in the CCRA.

VECC submits NT Power has demonstrated the 10-year payment to HONI for Holland TS is prudent.[26] VECC notes the payment amount has not yet been finalized with HONI. Thus, if approved the ICM variance account could serve to track the difference between the ICM amount and the final payment amount, to be cleared at the next CoS application.

Conclusion

In considering the above, VECC supports NT Power's request for ICM funding of $6,100,000 plus HST in 2021, during its deferred rebasing period, for the Second True-Up payment to HONI regarding the Holland TS. VECC submits this payment is eligible for and ICM during the deferred rebasing period.

All of which is respectfully submitted.

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[22] Manager's Summary P45 Table 2
[23] Manager's Summary P55-57
[24] ICM Appendix B
[25] ICM Appendix B
[26] Appendix 12