EB-2020-0019

ERTH Power Corporation

Application for electricity distribution rates and other charges beginning May 1, 2021

VECC Final Submissions March 10, 2021

ERTH Power Corporation (ERTH Power) filed an incentive rate-setting mechanism (IRM) application with the Ontario Energy Board (OEB) on November 27, 2020, under section 78 of the Ontario Energy Board Act, 1998, S.O. 1998, c. 15, (Schedule B) seeking approval for changes to the rates that ERTH Power charges for electricity distribution, beginning May 1, 2021.

VECC's submissions are in relation to ERTH Power's request for a rate change in the context of its 2019 earnings.

Background

The OEB approved the amalgamation of West Coast Huron Energy Inc. (WCHEI) with ERTH Power on December 20, 2018 to continue as a single local distribution company with a nine year deferred rebasing period.[1] ERTH Power was approved to maintain two separate rate zones, ERTH Power Main rate zone, and Goderich rate zone, until such time as rates are re-based. Consistent with the OEB's Handbook to Electricity Distributor and Transmitter Consolidations[2], the OEB approved ERTH Power's proposal to implement an Earning Sharing Mechanism (ESM) for the period beyond five years.[3] The Handbook states that consolidating entities that propose to defer rebasing beyond five years must implement an ESM for the period beyond five years.[4] Under the ESM, excess earnings are shared with consumers on a 50:50 basis for all earnings that are more than 300 basis points above the consolidated entity's annual ROE. The ESM is designed to protect customers and ensure that they share in any increased benefits from consolidation during the deferred rebasing period.

2019 Earnings

ERTH Power achieved an ROE in excess of 300 basis point in its merged 2019 financial performance.

In the Manager's Summary, ERTH Power explains why it should be entitled to earn in excess of 300 basis points and file for IRM increases during the 9-year rebasing deferral. ERTH Power states "In order to fund the cost of the transaction merging LDC's are able to earn more than the allowed bandwidth for rate of return for a period of five years and for ERTH Power an additional four years to be shared 50/50 with its customers. Therefore, given this decision and the Report of the Board Regarding Rate Making

[1] EB-2018-0082 Decision P1
[2] The Handbook to Electricity Distributor and Transmitter Consolidations dated January 19, 2016
[3] EB-2018-0082 Decision P19
[4] The Handbook to Electricity Distributor and Transmitter Consolidations dated January 19, 2016 P16

Policies Associated with Distributor Consolidation (issued July 23rd, 2007) and EB-2014-0138 issued March 26th, 2015, ERTH Power is clearly entitled to earn in excess of 300 basis points and file for IRM increases during the 9-year rebasing deferral."[5]

In setting rates during the nine years prior to rebasing, the OEB's Filing Guidelines apply to ERTH Power, and the Filing Guidelines state:

"For each of the OEB's three rate-setting options, a regulatory review may be triggered if a distributor's earnings are outside of a dead band of +/- 300 basis points from the OEB approved return on equity. The OEB monitors results filed by distributors as part of their reporting and record-keeping requirements and determines if a regulatory review is warranted. Any such review will be prospective, and could result in modifications, termination or the continuation of the respective Price Cap IR or Annual IR Index plan for that distributor.

A distributor whose earnings are in excess of the dead band is expected to refrain from seeking an adjustment to its base rates through a Price Cap IR or Annual IR Index plan. If a distributor whose earnings are in excess of the dead band nevertheless applies for an increase to its base rates, the OEB expects it to substantiate its reasons for doing so. The applicant should anticipate that the level of earnings will be raised as an issue in the application.[6]

In its application, ERTH Power is seeking a 1.90% and 1.60% increase to base rates for 2021 under Price Cap IR, for the ERTH Power Main and Goderich rate zones, respectively.[7][8] As per the Filing Guidelines, ERTH Power must substantiate its reasons for seeking a rate adjustment given its ROE in 2019 is 305 basis points above the 2019 approved ROE of 9.0%.[9]

The Handbook to Electricity Distributor and Transmitter Consolidations provides further guidance with respect to Off Ramps as follows:

"Each incentive rate-setting method includes an annual return on equity (ROE) dead band of ±300 basis points. When a distributor performs outside of this earnings dead band, a regulatory review may be initiated by the OEB. The OEB requires consistent, meaningful and timely reporting to effectively monitor utility performance and determine if expected outcomes are being achieved. The OEB's performance monitoring framework allows the OEB to take corrective action if required, including the possible termination of the distributor's rate-setting method and requiring the distributor to have its rates rebased.

The dead band of ±300 basis points on ROE continues to apply to utilities who have deferred rebasing due to consolidation. For utilities who defer rebasing up to five years, the OEB may initiate a regulatory

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[5] Manager's Summary P3
[6] OEB Filing Requirements For Electricity Distribution Rate Applications - 2020 Edition for 2021 Rate Applications - Chapter 3 Incentive Rate-Setting Applications May 14, 2020 - 3.3.5 Off-ramps P33

[7] Manager's Summary P23
[8] ERTH Power has used the group 3 stretch factor for ERTH Power-Main and the group 5 stretch factor for ERTH Power-Goderich
[9] VECC IR#1 (b)

review if the earnings are outside of the dead band. For utilities deferring rebasing beyond five years, an earnings sharing mechanism is required above ±300 basis points…"[10]

Rate-setting for the amalgamated utility must follow the above rate setting policies established by the OEB. In response to interrogatories, ERTH Power states it "now recognizes the possibility that an approved MAAD does not abdicate the need to justify its requested increases following a year in which a merged entity earned in excess of 300 basis. ERTH Power is not requesting that The Board render a decision on the ability of a newly merged entity to obtain a rate increase in a year following a year of outpacing its ROE by more than 300 basis as part of this proceeding."[11]

ERTH Power explains the 2019 ROE calculation includes lost revenue recoveries as a result of CDM activities performed by each LDC for prior years, 2017 and 2018 for ERTH Main and 2013 to 2018 for ERTH Goderich. 2019 ROE results include a one-time prior period recovery of $568,000 for this lost revenue. VECC submits these Lost Revenue Adjustment Mechanism Variance Account (LRAMVA) amounts clearly have a significant impact on the 2019 ROE calculation and are all prior period amounts. [12][13] If these amounts are not included in the 2019 ROE calculation under regulated net income, the adjusted ROE is 10.22%, 122 basis points above the approved ROE of 9.0%.[14]

ERTH Power provided ROE results for the years 2015 to 2019 and in every year except one, the actual ROE was below the deemed for every year for both utilities.[15] ERTH Power expects that 2020 and 2021 ROE results will be close to the deemed value for both years, although the 2020 financials have not been closed and the ability to forecast 2021 is limited.[16] ERTH Power indicates there are no anomalous or non-recurring impacts that affected earnings in 2019 that are expected to persist into 2020 and 2021.

In considering the above, VECC submits that the impact of the LRAMVA recoveries is a one-time event in 2019 related to prior periods and when removed from distribution revenue ERTH Power is within the 300 basis points deadband and did not over earn in 2019 based on normal utility operations. VECC recently supported the removal of LRAMVA amounts in the calculation of 2019 ROE in Niagara-on-the-Lake Hydro Inc.'s application (EB-2020-0042). VECC submits the OEB should approve ERTH Power's proposed adjustments to base rates for ERTH Power Main and ERTH Power Goderich.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

[10] P16
[11] Staff IR-11 (a)
[12] VECC IR 1 (b) & (c)
[13] $90,331 for WCHEI & $478,024 for ERTH Power
[14] VECC IR#1 (a) ERTH Power 2019 Year End ROE Filing Adjusted (excel)
[15] VECC IR#1 (b)
[16] VECC IR#3 (c)