McCarthy Tétrault LLP
PO Box 48, Suite 5300
Toronto-Dominion Bank Tower
Toronto ON M5K 1E6
Canada
Office Phone
Fax: 416-868-0673

George Vegh
Counsel
Direct Line: (416) 601-7709
Direct Fax: (416) 868-0673
Email: gvegh@mccarthy.ca

Assistant: Thomas, Michelle
Direct Line: (416) 601-8200 x542186
Email: mthomas@mccarthy.ca

May 11, 2021

Via RESS & EMAIL

Ms. Christine E. Long
Board Secretary
Ontario Energy Board
Suite 2700, 2300 Yonge Street
P.O. Box 2319
Toronto, ON M4P 1E4

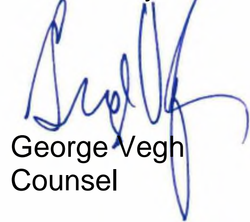
Dear Ms. Long:

Re: Upper Canada Transmission, Inc.'s ("NextBridge"), EB-2020-0150
NextBridge Reply Argument

Enclosed please find the Reply Argument of NextBridge in the above-noted proceeding.

All of which is respectfully submitted.

Yours truly,



George Vegh
Counsel

GV:mt
Encls.

cc. All Parties in EB-2020-0150

ONTARIO ENERGY BOARD

OEB PROCEEDING EB-2020-0150

APPLICATION FOR ELECTRICITY TRANSMISSION REVENUE REQUIREMENT BEGINNING APRIL 1, 2022 UNTIL DECEMBER 31, 2031

REPLY ARGUMENT

UPPER CANADA TRANSMISSION, INC.

OPERATING AS

NEXTBRIDGE INFRASTRUCTURE, LP

May 11, 2021

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1 **TABLE OF CONTENTS**

2
3 **INTRODUCTION**……………………………………………………………………….……4

4 **1. GENERAL**……………………………………………………………………............8
5
6 Has NextBridge responded appropriately to all relevant OEB directions from previous
7 proceedings? ……………………………………………………………………………8
8
9 Are all elements of the proposed revenue requirement and their associated total bill impacts
10 reasonable? ……………………………………………………………………………..8
11
12 Is the proposed effective date of April 1, 2022 and proposed timing for inclusion in the
13 UTRs appropriate? ………………………………………………...………………...8
14
15 **2. REVENUE CAP APPLICATION** ……………………………………………………..9
16
17 Is the proposed Incentive Rate methodology appropriate?..9
18
19 Are the proposed inflation factor and the proposed productivity factor appropriate?.........9
20
21 Should there be earnings sharing mechanism? If so, how should it be
22 implemented?...9
23
24 Are the proposed annual updates appropriate? ……………………………….............26
25
26 Is the proposed nine year and nine month length of the IRM plan appropriate?
27 ………………………………………………………………………………………27
28
29 **3. TRANSMISSION SYSTEM PLAN**……………………………………………………29
30
31 Have investment planning processes been appropriately carried out? …………………...29
32
33 Does the 2021-2031 Transmission System Plan adequately address the condition of the
34 transmission system assets?..31
35
36 **4. PERFORMANCE**………………………………………………………………………31
37
38 Is the proposed monitoring and reporting of performance adequate?................................31
39
40 **5. OPERATIONS, MAINTENANCE, & ADMINISTRATION COSTS**………………32
41
42 Are the proposed spending levels for OM&A appropriate, including consideration of
43 factors such as system reliability and asset condition?..32
44

Are the amounts proposed to be included in the revenue requirement for income taxes appropriate?....35

Is the proposed depreciation expense appropriate?....35

Are the services to be provided by third-parties, and their associated costs, appropriate?....35

6. RATE BASE & COST OF CAPITAL....38

Are the $737 M construction costs and $5.3M Phase Shift costs prudent for recovery?.....38

Are the amounts proposed for rate base appropriate?....38

Is the proposed cost of capital, including the current forecast of long-term debt and the proposed 2023 update of the cost of long-term debt, appropriate?....44

Is NextBridge's response to COVID-19 appropriate? 45

Is NextBridge's proposed treatment of COVID-19 related costs appropriate?....46

7. DEFERRAL & VARIANCE ACCOUNTS....47

Are the proposed deferral and variance accounts, and the proposed scope and timing for disposition of these accounts appropriate?....47

8. COST ALLOCATION....56

Is the proposed cost allocation appropriate?....56

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39

1 **INTRODUCTION**

2 These are the Reply Submissions of the Applicant, NextBridge Infrastructure, LP ("NextBridge").

3 NextBridge has applied for rates in accordance with the Board's policy guidance for Custom
4 Incentive Regulation ("CIR"), which involves the establishment of a forward test year revenue
5 requirement on a cost of service basis with annual adjustments throughout the term based on Board
6 approved parameters. In fact, it is the implementation of the Board's CIR that is the primary policy
7 disagreement between the Applicant, Board Staff ("Staff") and the intervening parties, with the
8 Applicant following the Board's policy, and Staff and the parties urging the Board to diverge from
9 its policy.

10
11 With respect to annual adjustments, NextBridge has proposed a term of nine years and nine
12 months. This term demonstrates NextBridge's commitment to managing its costs for an extended
13 period, has the benefit of locking in a historically low cost of capital, and defers the need for costly
14 and resource intensive rebasing hearings for close to 10 years. In order to provide the Board
15 confidence that customers will not be harmed as a result of this term, NextBridge has proposed a
16 trigger for the Board to review and potentially re-open the plan should it over-earn by 300 basis
17 points above the approved ROE. For additional protection, in response to concerns from
18 intervenors and Staff, as described below, NextBridge is also proposing an asymmetrical 50-50
19 earnings sharing of revenues greater than 100 basis points above the approved ROE.

20 With respect to the components for these adjustments, NextBridge has proposed to apply a Board-
21 established inflation factor of 2%, and a productivity factor of 0%.

22 With respect to inflation, several parties have proposed that the inflation factor should be annually
23 adjusted to reflect the Board approved inflation factor for transmitters.[1] NextBridge does not
24 oppose this proposal.

25 NextBridge's productivity factor is reasonable because, as indicated in the argument in chief,
26 NextBridge's proposed base operation, maintenance, and administrative ("OM&A") costs are

[1] See for example, SEC at p. 22.

1 minimal and are likely to increase beyond the inflation factor in any event. Productivity is
2 therefore built into NextBridge's proposed costs and there are minimal areas for additional
3 efficiency gains during the plan term.

4 NextBridge's proposal complies with the Board's Renewed Regulatory Framework for Electricity
5 ("RRFE") Policy and, in particular, satisfies the principles of Decoupling, Comprehensiveness and
6 Over-Earning Mitigation (these Principles are defined below).

7 The rates relate to a proposed 450 kilometre East-West Tie line which is somewhat unique
8 compared to other new lines in Ontario because it runs through rugged terrain and is the first new
9 line in that area in several decades.

10 The facility is also unique in that it is a single line of a stand-alone transmitter, as opposed to a line
11 that makes up part of a network with a utility affiliate. This increases the risk of additional costs
12 for NextBridge because, as the operator of a single line without affiliates, it does not have the
13 options of optimizing its investments across a portfolio of assets or cost-sharing with an affiliate.

14 NextBridge is prepared to manage those costs within the proposed CIR framework.

15 However, some parties have inappropriately pointed to the single asset nature of the line as
16 justifying a departure from CIR principles and have proposed a *quasi*-cost of service approach.
17 The result of these approaches would be a dramatic departure from the Board's precedents and
18 policies respecting CIR.

19 In support of these arguments, some parties have pointed to the Board's decisions in Bruce to
20 Milton (also "B2M") and Niagara Reinforcement, LP ("NRLP" or "Niagara Reinforcement")
21 (collectively the Hydro One Networks, Inc. ("Hydro One" or "HONI") Settlements). These
22 transmission lines were built by affiliates of HONI and their rates were set by settlement
23 agreements that were approved by the Board but not adjudicated or otherwise tested on the public
24 record.

1 The Board has consistently held that the approval of settlement agreements does not result in
2 precedent. Although no party has argued that they are technically precedent, as will be seen, some
3 parties have effectively incorporated similar terms into their proposals.

4 It is therefore worth addressing why applying these terms are particularly inappropriate here.

5 As the Board is aware, HONI is Ontario's incumbent transmitter and competes (both directly and
6 through its family of incumbent transmitters) with NextBridge and other potential new entrants for
7 new transmission opportunities. HONI's submissions in this case are expressly made on behalf of
8 its applicant affiliates in those cases – Bruce to Milton and Niagara Reinforcement.[2] HONI
9 therefore clearly represents their interests as part of the Hydro One family of incumbent
10 transmitters.

11 There is no reason to believe that HONI's strategic interests in agreeing to the settlement
12 agreements in the Niagara Reinforcement and Bruce to Milton cases (collectively the "HONI
13 Settlements") were any different.

14 The Niagara Reinforcement settlement in particular was a bilateral agreement between HONI and
15 Board Staff that did not include intervenors, or NextBridge, or any other party that is now proposed
16 to be bound by it. That settlement departed from Board policy by reducing Board-approved
17 inflation parameters by 50%, thus having a material impact on revenues.

18 NextBridge submits that it would be highly unusual and inappropriate for the Board to allow the
19 HONI Settlements to be used to effectively increase the costs of new entry into the transmission
20 market. This is a clear example of why such privately bargained settlement agreements should not
21 be imposed on third parties: they can reflect strategic priorities that go beyond the immediate
22 issues in a specific application. As the Board noted, in explaining why settlements are not binding
23 on the Board or other parties, "all settlements contain trade-offs."[3] Allowing a utility to make
24 trade-offs that effectively dictate the terms under which its competitors may seek to earn revenues

[2] HONI, p. 26.
[3] Enbridge Gas Distribution Inc., EB-2012-0459 (July 17, 2014), at p. 6.

1 opens the door to, frankly, dangerous and uncompetitive activities. In HONI's case, these trade-
2 offs can go beyond the single asset being settled.

3 With respect to the test year revenue requirement, NextBridge has pled extensive evidence on the
4 prudence of its forecasted construction capital costs and operation, maintenance, and
5 administrative ("OM&A") Test Year expenditures, all of which has been thoroughly tested through
6 the interrogatory and hearing process, and supported by a transmission system plan and
7 independent bench-marking evidence. Indeed, only a minority of parties and Staff raised issues
8 with proposed OM&A and capital costs, and, as discussed herein, the Board should reject the
9 requested disallowances as without merit. Similarly, the few concerns of Staff and the parties with
10 the variance accounts are equally without merit and should also not be adapted.

1. GENERAL

- **Has NextBridge responded appropriately to all relevant OEB directions from previous proceedings?**

Staff agrees that NextBridge had responded appropriately to all relevant OEB directions from previous proceedings. No party takes issue with NextBridge's response to OEB directives. Therefore, based on the evidence submitted by NextBridge, the Board should conclude that NextBridge has responded appropriately to all relevant OEB directions from previous proceedings.

Staff proposes that the OEB impose a new directive requiring NextBridge to have a professional engineer confirm that the East-West Tie line is consistent with the minimum technical requirements outlined in the Board's designation process.[4] NextBridge is agreeable to complying with such a directive, if the Board were to issue it.

- **Are all elements of the proposed revenue requirement and their associated total bill impacts reasonable?**

No party nor Staff disputes the manner in which NextBridge calculated the total bill impacts, but they did dispute the recovery of certain elements that impact the calculation under Designated Issues No. 2, 3, 5, and 6. Therefore, NextBridge will address the assertions regarding the specific elements under the applicable Designated Issue, *infra*.

- **Is the proposed effective date of April 1, 2022 and proposed timing for inclusion in the UTRs appropriate?**

Staff agrees that the proposed effective date of April 1, 2022 is appropriate.[5] No party disputes the April 1, 2022 effective date, or NextBridge's request that its revenue requirement be included in the UTR as of January 1, 2022, subject to a revenue deferral variance account ("RDVA") tracking the revenue impact should there be a difference from the currently planned in-service date. Staff, however, proposes a deviation from the OEB's practice in which the UTR is set on an

---

[4] Staff, pp. 5, 10-11.
[5] *Id*. pp. 5, 48.

interim basis on January 1, 2022, and a final basis on or about April 1, 2022 when the East-West Tie Line and a Watay asset is placed into service.[6] Although NextBridge submits that its proposed RDVA appropriately ensures that revenues and the in-service date of the East-West Tie line are in sync, if the Board prefers to conduct an off-cycle UTR update at the in-service date of the East-West Tie line instead of using a RDVA, NextBridge is amenable, provided that (1) the UTR update is decoupled from the in-service date of the Wataay project's in-service date, as NextBridge has no control over the Wataay transmission project, and (2) that the update to the UTR is sufficiently flexible to adjust if the East-West Tie line comes into service prior to March 31, 2022 or after March 31, 2022.

2. REVENUE CAP APPLICATION

- **Is the proposed Incentive Rate methodology appropriate?**
- **Are the proposed inflation factor and the proposed productivity factor appropriate?**
- **Should there be an earnings sharing mechanism? If so, how should it be implemented?**

NextBridge has proposed a nine year nine month Custom Incentive Regulation plan that is consistent with the Board's policy and previous decisions. Its proposal will lock in a historically low cost of capital, producing over $80.6 million in customer savings. The risks respecting expected and unexpected cost increases will be borne by NextBridge.

The parties and Staff have provided a critical perspective on this filing and have made some points that NextBridge has found convincing. Specifically, all parties have proposed that the proposal should include an earnings' sharing mechanism ("ESM") to address the risk of over-earning. NextBridge acknowledges that an ESM, while not mandatory, is a conventional practice of the OEB and proposes an ESM of 50% of earnings greater than 100 basis points over approved ROE. This extra layer of protection should guard against any concerns that the Board may have that NextBridge may materially over-earn during the term.

[6] *Id*. pp. 8, 12-13, 53-54.

RRFE Framework

NextBridge submits that the Board should evaluate its CIR proposal by reference to the Board's framework for rate regulation established in its Report on Renewed Regulatory Framework for Electricity ("RRFE"). The RRFE framework adopts the following three key principles:

1. Decoupling Revenues from Costs after Rebasing (the "**Decoupling Principle**"):[7]

   Going into PBR, distribution rates are set based on a cost of service review. Subsequently, rates are adjusted based on changes to the input price index and productivity and stretch factors set by the Board**. PBR decouples the price (the distribution rate) that a distributors charges for its services from its cost. This is deliberate** and is designed to incent behaviours described by the Board in 2000. This approach provides the opportunity to earn, and potentially exceed, the allowed rate of return on equity. **It is not necessary, nor would it be appropriate, for ratebase to be calibrated annually.**

2. Revenues are Determined on a Comprehensive Basis, i.e., not separated between capital and OM&A (the "**Comprehensiveness Principle**"); the Board specifically rejected the argument that regulation should be "targeted" by treating OM&A cost adjustments separately from capital cost adjustments:[8]

   The Board continues to support a comprehensive approach to rate-setting. Recognizing the relationship between capital expenditures and OM&A expenditures. Rate-setting that is comprehensive creates stronger and more balanced incentives and is more compatible with the Board's implementation of an outcome-based framework.

3. Protection from Over-Earnings through a mandatory Dead Band (the "**Over-Earning Mitigation Principle**"). As the Board put it, the Over-Earning Mitigation Principle is a mechanism "to protect customers from utility earnings that become excessive":[9]

[7] RRFE, p. 11.
[8] RRFE, p. 9.
[9] Handbook to Utility Rate Applications 25 October 13, 2016, p. 27.

1 Each rate-setting method will include a trigger mechanism with an annual Return
2 on Equity ('ROE') dead band of +/- 300 basis points. When a distributor performs
3 outside of this earnings dead band, a regulatory review may be initiated.[10]

4 As indicated, NextBridge is prepared to go beyond this mandatory requirement and also be subject
5 to an ESM.

6 NextBridge's CIR proposal complies with or exceeds the requirements of all of these Principles.

7 It is consistent with the Decoupling Principle because, after base rates are established, ongoing
8 rate adjustments are addressed in a formulaic way that uses objective standards of inflation and
9 productivity. It does not re-open or recalculate rate base or other costs as a way of adjusting
10 revenue requirement or rates.

11 NextBridge's proposal is consistent with the Comprehensiveness Principle because it does not
12 differentiate between capital and OM&A costs. While this distinction is relevant for the initial
13 base, throughout the course of the term, NextBridge is required to manage its costs within an
14 approved envelope, permitting it to make trade-offs between capital and OM&A as required to
15 meet its service obligations in the most efficient way possible.

16 Finally, it is consistent with and goes beyond the mandatory component of the Over-Earnings
17 Mitigation Principle because, by adopting an ESM, consumers are ensured that they will share in
18 the benefits of any earnings over 100 basis points above approved ROE on an ongoing basis.
19 Further, if there are excess earnings that are exceptional (*i.e.*, above the Board's triggering
20 threshold), the Board may review the structure of the approved CIR and make any adjustments it
21 considers necessary. In both cases, there are mechanisms to ensure that NextBridge does not
22 unreasonably over-earn during the term.

23 The proposal thus meets the Board's stated goals for the RRFE: "Through taking a longer term
24 view, the new framework will provide an appropriate alignment between a sustainable, financially

[10] RRFE, at p. 11.

1 viable electricity sector and the expectations of customers for reliable service at a reasonable
2 price."[11]

3

4 RRFE Framework and a Single Line Facility

5 NextBridge acknowledges that its transmission facilities are different from typical distribution and
6 transmission networks. As will be discussed below, although intervenors and Staff make much of
7 this difference and suggest that the RRFE Framework should not be applicable to a single line
8 facility, the evidence is that, as an operator of a single asset, NextBridge faces more risk than either
9 distribution and transmission networks or transmitter affiliates.

10 Managing a single asset imposes higher risk of increased cost than managing a portfolio of assets.
11 This is because one asset provides less opportunity to optimize than a set of assets. As Ms.
12 Walding testified:

13
14 > So as an example, if a utility that has a large number of lines, if they have in one
15 > year a certain amount of failure go on, then they might take money from a substation
16 > project and spend it on the line. But this project is a lot harder to manage because
17 > it is one project. …There isn't another place to kind of shift costs from like you
18 > have on an overall utility.
19
20 > So to the extent that this line has cost pressures, it's only in this line that you can
21 > recover those costs through this rate structure that we have proposed.[12]
22

23 With respect to utility affiliates (such as B2M and NRLP), the evidence is that affiliates have "the
24 ability to have the overall network of Hydro One to support some of their activities, whereas we
25 have to go out and have to procure those activities ourselves as an independent transmitter."[13] This
26 is demonstrated by the fact that these affiliates OM&A costs are simply allocations of Hydro One's
27 OM&A costs, as opposed to costs negotiated with a stand-alone third party provider. [14] Further,

---

[11] RRFE, at p. 1.
[12] Transcript, Vol. 1, p. 83.
[13] Transcript, Vol. 2, p. 112.
[14] See discussion at footnote 46 and 102.

1 utility affiliate costs are fixed through allocations for their CIR terms, while NextBridge's OM&A
2 costs are subject to contractual terms that may be negotiated throughout the term of its third party
3 service contacts.
4
5 Even HONI's counsel stated that "Throughout the evidence and testimony, the witnesses have
6 defended that certain costs arise because NextBridge is a single line company, and I think that's a
7 fair statement."[15]
8
9 Despite the additional risks that accompany owning and operating a single line without utility
10 networks or affiliates, NextBridge is committed to incentive regulation as being in the best interests
11 of customers and submits that there is no reason to abandon the RRFE principles in setting rates
12 for the facility. This is especially the case in that new entrants in transmission are likely to invest
13 in single assets and require certainty that the Board will continue to follow its policies.

14 To use the Board's words, it is important to take "a long term view" that focuses on outcomes and
15 not look for opportunities to abandon these principles by going back to cost of service, or worse,
16 an *ad hoc* hybrid of cost of service and performance based proposals that introduce the risk of
17 unintended consequences and an investment environment marked by regulatory risk and
18 uncertainty.

19 It is respectfully submitted that the Board should apply existing RRFE Principles to NextBridge
20 as a single line facility. The RRFE Principles were developed in an open and transparent policy
21 process after extensive consultation with all impacted parties. Indeed, NextBridge made its
22 investment decisions based on the understanding that the RRFE Principles would be applied, and,
23 therefore, for the Principles to be abandoned, as recommended by some in this proceeding, is
24 inappropriate and counterproductive to encouraging new entrants. Specifically, discussed below,
25 given that the rates for single lines have been considered by the Board are those of the incumbent
26 transmitter, HONI and its affiliates (Bruce to Milton and Niagara Reinforcement) and have not
27 been subject to a transparent review by the Board, the rate components that were agreed to (and

[15] Transcript, Vol 2, p. 170.

1 perhaps proposed) by the incumbent in those cases do not reach the level of precedent and policy,
2 and certainly do not justify the abandonment of the Board's RRFE precedent and policy in this
3 case.

4 In other words, the Board should be reluctant to allow these settlement agreements with only
5 limited, and, in NRLP's case no, intervenor participation, to set the economic terms under which
6 new entrant transmitters are permitted to financially operate by imposing principles in the
7 incumbent's settlement agreements on parties that have not been party to them. Otherwise, the
8 Board can find itself in the position of unintentionally setting up barriers to new entry.

9 **Parties' Positions**

10 School Energy Coalition ("SEC")

11 Proposed Replacement of RRFE Principles with a New Policy: *Quasi* Cost of Service

12 This Section of the Reply is centered on the submissions of SEC, both because it took the lead on
13 this point[16] and is the most transparent of the intervener submissions in that it expressly
14 acknowledges the inconsistency of its proposed approach with current OEB policy. According to
15 SEC, "A traditional I-X RCI framework does not make sense for a utility like NextBridge."[17]

16 SEC therefore proposes replacing the major components of the Board's regulatory framework with
17 a new policy.

18 SEC's proposal is to replace the Decoupling and Comprehensiveness Principles in the RRFE
19 framework with an approach that selectively chooses elements of cost of service and incentive
20 regulation, but is not consistent with either.

21 Specifically, SEC proposes that the Board use two different adjustment mechanisms, one for
22 OM&A and another for capital (thus disregarding the Comprehensiveness Principle).

---

[16] SEC's submissions are largely adopted by CCC, VECC, AMPCO, and Energy Probe.
[17] SEC, para. 2.8.2. VECC also appears to acknowledge that it is advocating a change to Board policy that will require broader consultation. See VECC submissions, pp. 19-20.

1 For OM&A costs, it proposes to replace the Board established inflation factor with an inflation
2 factor set by the Board on an annual basis so that it reflects "the actual economy-wide inflation
3 rate."[18] As indicated, NextBridge does not oppose an updated annual inflation factor for all of its
4 revenues (whether relating to capital or OM&A costs). However, that should apply
5 comprehensively, not just to OM&A costs.

6 The evidence is that, regardless of the Board approved inflation factor, NextBridge has committed
7 to bear responsibility for OM&A costs that are in excess of a Board approved inflation factor.[19]
8 The Board's current inflation factor is 2%. While this is less than the inflation that NextBridge
9 will actually face, it can nevertheless be managed through good management and innovation. This
10 demonstrates how productivity is built into NextBridge's proposal.

11 SEC has proposed a further reduction of OM&A costs through a 0.3 productivity factor based on
12 the Board's recent Hydro One transmission rates decision.[20] The Board has reviewed Hydro One's
13 transmission and distribution productivity for several years and made its determination based on
14 the evidence in those proceedings. SEC has not provided any reason why the Hydro One
15 productivity factor should apply here. Indeed, the only rationale provided by SEC for its proposed
16 productivity factor is that it is the mid-point between 0% and 0.6%.[21]

17 With respect to capital costs, SEC changes its approach. Instead of proposing that its OM&A CIR
18 mechanisms apply in a comprehensive way, it proposes a *quasi*-cost of service approach to capital
19 costs that has been expressly rejected by the Board. It proposes a Capital Adjustment Factor that
20 effectively recalculates NextBridge's rate base on an annual basis to reflect its depreciated book
21 value[22] (thus violating the Decoupling Principle). In other words, it is proposing that the Board
22 annually calibrate NextBridge's rate base, which is something that the Board specifically
23 determined is neither "necessary nor … appropriate".[23]

---

[18] SEC, p. 22.
[19] Argument in Chief, p. 12; Transcript Vol. 1, p. 86.
[20] SEC, para. 2.8.6 and Decision and Order in Hydro One Transmission Rates (EB-2019-0082), April 23, 2020.
[21] SEC, para. 2.8.7.
[22] SEC, paras. 2.8.8 and 2.8.9.
[23] RRFE, at p. 11.

1 The SEC proposal aimed to achieve the annual calibration of rate base an annual inflation factor
2 of 0% and a SCAF of 0.93%, i.e., 0 - 0 .93 = ((0.93%)). The SEC Proposal for capital costs is only
3 *quasi* cost of service because it would nevertheless have NextBridge take the risk on any cost
4 increases without guaranteed recovery of increased costs – as would be provided in a true cost of
5 service regime.

6 It is true that when utilities have applied for capital adjustments that are in addition to the base
7 capital costs included in a going forward rate base the Board has imposed productivity
8 requirements to those additional costs.[24] But in the absence of a proposal for additional capital
9 costs, the Board has imposed a single productivity factor for capital and OM&A.

10 In addition to rejecting the Comprehensive and Decoupling Principles, SEC's submissions ignore
11 NextBridge's proposal respecting the Over-Earning Mitigation Principle. SEC inaccurately claims
12 that NextBridge "has not proposed any customer ratepayer protection mechanisms."[25] NextBridge
13 has proposed the dead band as part of Over-Earning Mitigation Principle. As indicated,
14 NextBridge is also prepared to bolster these rate payer protections through an ESM.

15 In any event, SEC argues that the mandatory dead band component of the Over-Earning Mitigation
16 Principle is inadequate because it *permits*, but does not *require* the Board to review and adjust
17 rates and that there is a time lag in any review and adjustment.[26]

18 In response, SEC may not support the Board's current policy (including the Over-Earning
19 Mitigation Principle) but that does not mean that this panel should abandon it. The fact that the
20 Board maintains discretion over its review and adjustments is not a flaw of the current policy. It
21 is a feature of it. If NextBridge does, in fact, meet the 300 basis point trigger for earnings review,
22 a future OEB panel can exercise its authority to review NextBridge's earnings and make a
23 determination based on the facts before it. There is no reason why the current panel should adopt
24 a policy that prevents a future panel from exercising its public interest mandate in accordance with
25 the express components of OEB policy.

[24] See Hydro One Distribution and Transmission, and Toronto Hydro.
[25] SEC, para. 2.9.3.
[26] SEC, para. 2.6.4.

1 As for time lags, they are an inherent part of every regulatory process and their consequences can
2 be addressed through deferral and variance accounts if necessary.

3 Perhaps not surprisingly, despite the fact that the Board's ESM policy addresses the specific risk
4 raised by SEC, SEC still considers it inadequate in this case and proposes a much more intrusive
5 *quasi* cost of service approach. SEC's grounds for opposing even ESM as a policy response to
6 over-earning (even though the Board has used that policy on several occasions) is that this policy
7 is based on "asymmetry of information that exists between the utility and the regulator."[27]

8 SEC offers no authority for this new proposition. Instead, it appears to be another attempt by SEC
9 to use this case to change OEB policies that it disagrees with so that it can secure a lower rate at
10 the expense of NextBridge's financial performance. Although this approach may be superficially
11 attractive to customers in that it has the appearance of lowering rates for this asset, such an *ad hoc*
12 departure from existing policy will ultimately lead to greater uncertainty and higher costs as
13 investors will have to recalibrate the risks of making OEB regulated infrastructure investments.

14 <u>Additional Issues Raised by SEC Proposal</u>

15 SEC's proposal raises additional issues.

16 First, although SEC submits that its reduction of annual capital related revenue is "based on its
17 analysis,"[28] its so-called "analysis" consists of a spreadsheet that takes no account of the risk of
18 potential cost increases to be borne by NextBridge over the term of the plan. As Ms. Walding
19 testified:[29]

20 Plus, I would also say it's just a spreadsheet. It's not going to take into account
21 what our real OM&A escalation is, as well as our OM&A exposure on the project.
22
23 And so, you know, from a spreadsheet perspective you can say that this is what we
24 are going -- what we're asking for, but we don't at all believe that that's what is
25 going to materialize, because there are a lot of assumptions, as you have pointed
26 out, in this as well.

[27] SEC, para. 2.7.2.
[28] SEC, para. 2.8.9.
[29] Transcript, Vol 1, p. 74.

The SEC spreadsheet, like the spreadsheets prepared by Staff are aptly characterized by Staff as being "creative with numbers." [30] Those numbers arose out of SEC's spreadsheet based on a number of hypothetical situations and assuming outcomes that are extremely unlikely, including that the Board would ignore the Over-Earning Mitigation Principle and thus give the appearance that NextBridge will earn returns that are over 300 basis points above its approved ROE without an OEB intervention.

Second, the evidence is that, if SEC's proposal is accepted by the Board, NextBridge will not be able to earn its return and its cost of debt will be higher.[31] Table 1, set out below, uses SEC's proposed parameters for OM&A and capital cost recovery. This data is closer to the real world in which NextBridge will operate and more consistent with the evidence and with NextBridge's proposal than the SEC proposal. Specifically, under Table 1, NextBridge's OM&A costs increase by 3% annually, which is in many ways a best case scenario for NextBridge. As can be seen, under this proposal, NextBridge is capable of earning a Board approved return only one year during the plan term. For the remainder of the term, NextBridge will under-earn, which appears to be the purpose of the SEC proposal.

Table 2-1: SEC Proposal

SEC Proposal	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031
Split RR (Capital RR - Cap Adj Factor) OM&A (I-X)										
Capital-Related RR ($M)	50.78	50.32	49.87	49.42	48.98	48.54	48.10	47.67	47.24	46.81
OM&A ($M)	4.94	5.02	5.11	5.20	5.28	5.37	5.47	5.56	5.65	5.75
Total RR ($M)	***55.72***	***55.35***	***54.98***	***54.62***	***54.26***	***53.91***	***53.57***	***53.23***	***52.89***	***52.56***
ROE (%)	8.52%	8.48%	8.49%	8.48%	8.50%	8.51%	8.52%	8.53%	8.55%	8.57%
Minimum Amount of OMA	4.94	5.09	5.24	5.40	5.56	5.73	5.90	6.08	6.26	6.45
Maximum ROE to be Achieved (%)	8.52%	8.46%	8.44%	8.42%	8.40%	8.39%	8.37%	8.35%	8.33%	8.32%

By contrast, Table 2 sets out potential maximum earnings under NextBridge's proposal reflecting 50% of the earnings are shared with rate payers over 100 bps and the 3% annual increase in OM&A. NextBridge expects 3% to be the minimal increase in OM&A for the rate term. As appears from Table 2, NextBridge's proposal provides NextBridge with at least the opportunity to

[30] Transcript, Vol. 3, p. 115.
[31] Transcript, Vol. 3, p. 145.

1 earn its return and over-earn if the project is managed efficiently. In this case, in those years of
2 potential over-earning, customers will benefit from over-earning through the proposed ESM. In
3 no years will NextBridge have the potential of earning at or above the 300 basis point dead band.

4 **Table 2-2: NextBridge Proposal**

5

	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031
Nextbridge Proposal ROE (%)	8.52%	8.73%	8.98%	9.22%	9.49%	9.76%	10.04%	10.33%	10.63%	10.95%

6 Third, it is important to note that SEC's *quasi* cost of service proposal (like those of other
7 intervenors) is largely based on the HONI Settlements. Although SEC points out that it is not
8 directly proposing the HONI Settlements in this case,[32] its proposal contains the same components,
9 i.e., a reduction of the inflation factor and a Settlement Capital Adjustment Factor ("SCAF"). In
10 fact, SEC's proposal is more draconian than the HONI Settlements. In Bruce to Milton, the
11 agreement was to use the Board approved inflation factor less a SCAF of 0.6% (i.e., at then current
12 rates, 1.8% - 0.6% = 1.2%). In Niagara Reinforcement, the agreement was to reduce the Board
13 approved inflation factor by 50% plus an additional reduction of 0.6% (i.e., at then current rates,
14 (1.8% x .5) - 0.6% = 0.3%). Here, SEC proposes that capital costs have an annual inflation factor
15 of 0% and a SCAF of 0.93%, i.e., 0 - 0 .93 = (0.93%)). The SEC proposal is a dramatic departure
16 from even settled agreements of the incumbent utility affiliates with lower cost exposure than
17 NextBridge.

18 Board Staff[33]

19 Like SEC, Staff has proposed that the Board selectively apply cost of service and incentive based
20 components in a manner that reduces NextBridge's revenue entitlements from what they would be
21 if the Board applied its RRFE policy, including the Decoupling, Comprehensiveness, and Over-
22 Earning Mitigation Principles set out above. Staff has also endorsed the HONI Settlements, in
23 particular in the NRLP case, where it was the only counterparty to that agreement.

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[32] SEC, Footnote 3.
[33] Staff's proposed approach was largely supported by Energy Probe (see pp. 13-14).

1 Staff's starting point in its analysis is based in its quotation of one paragraph describing cost of
2 service regulation by the Supreme Court of Canada in *Ontario Energy Board v. Ontario Power*
3 *Generation* ("*OPG*")[34]. On several occasions, Staff quotes the Court as saying that "utilities must
4 be allowed, over the long run, to earn their cost of capital, no more, no less."[35] Although this
5 statement accurately characterizes the Board's rate making obligations for cost of service reviews
6 (such as those in establishing a rebasing in a cost of service review that leads into incentive
7 regulation), it does not apply to annual rate adjustments in an incentive regulation plan. If these
8 quotations are applied to annual rate adjustments during an incentive regulation plan, then the
9 legality of the Board's entire RRFE regime, and certainly the Decoupling Principle, which
10 expressly separates revenues from costs, is unlawful.

11 Indeed, Staff's commitment to cost of service regulation in the face of a Board policy of incentive
12 regulation sends confusing and inconsistent signals to investors. So deep is their commitment that
13 Staff proposes that the CIR formula should be reverse-engineered to achieve an outcome that is
14 estimated to produce rate revenue that equals the current board approved return of 8.52% (now
15 8.34%) over most of the years of the term. It does this by developing a spread sheet that starts
16 with an approved revenue requirement and then reverse-engineers specific components of the CIR
17 formula to achieve this outcome, at least on paper.[36] This would be even more difficult to reverse-
18 engineer in practice of implementing actual rates and revenues.

19 Like the SEC spreadsheets, Staff spreadsheets provide a self-described "creative approach"
20 designed "to reach some sort of formula that saw NextBridge every single year of the nine year,
21 nine month term earn 8.34 percent every single year based on certain assumptions." [37]

22 This is a remarkable, and again would be an unprecedented approach to Ontario rate regulation.
23 Even in the past when the Board used cost of service regulation, the Board examined prudently
24 incurred operating and capital costs from the ground up, not backwards from the revenue

[34] 2015 SCC 44.
[35] Staff, pp. 21-22.
[36] Staff, p. 27.
[37] Transcript, Vol 3, p.115.

1 requirement that it sought to approve. We are not aware of any OEB decision which started with
2 an approved revenue requirement and then contrived a set of costs and formulae to achieve it.

3 But again, like the SEC proposal, Staff's approach is asymmetrical in that, unlike cost of service
4 regulation, there is no guaranteed recovery of costs. Instead of passing through costs under a cost
5 of service regime, Staff puts the risk of not covering costs on NextBridge but provides no
6 opportunity to exceed an approved rate of return in the event of efficient operations.

7 One of the reasons that this is an inappropriate approach to rate making is that it presumes it can
8 predict utilities' revenues ten years into the future. Staff seems to understand that predicting
9 financial performance is fraught with difficulty. When it comes to NextBridge's analysis of
10 locking in low ROE for ten years, Staff submits that, given the uncertainty of financial predictions,
11 "there is no assurance" that NextBridge's analysis will turn out to be true.[38] This does not prevent
12 Staff from asserting that its revenue prediction is accurate.

13 In addition, Staff argues that inflation should not be applied to fixed components.[39] Staff cites no
14 authority for this proposition. All utilities have a mix of fixed and variable costs. The Decoupling
15 Principle requires that costs should not be broken down into their components for the purposes of
16 IR. Claiming that the inflation factor cannot apply to fixed costs is a radical departure from current
17 OEB policy and would require a restructuring of virtually all utility rates in the province.

18 Staff argues that, in proposing a 2% inflation factor, NextBridge is somehow asking to be treated
19 differently than other transmitters. NextBridge is not seeking different treatment, and, as indicated,
20 does not oppose an annual adjustment of the inflation factor representing the inflation factor for
21 transmitters generally. In any event, Staff proposes an inflation factor of 0% but does not point
22 to any OEB CIR policy supporting the imposition of a 0% inflation factor and offers no evidence
23 in support of the claim that NextBridge will not face any inflation for the plan term.

24 Staff also mistakenly equates a productivity factor with a stretch factor and simply asserts that
25 NextBridge's proposal of 0% productivity is inappropriate. Instead, it uses the terms "stretch

[38] Staff, p. 46. In this regard, it is worth noting that SEC agrees that "the Board's current cost of capital rates may be at historic lows compared to the last decade": SEC, p. 9.
[39] Staff, pp. 15-16.

1 factor" and "productivity factor" interchangeably and focuses on how these concepts can be used,
2 again in a results-oriented approach, to reduce revenues. Staff then offers a menu of stretch factors
3 of 0.5, 0.75, and 0.3.[40] There is no principled or factual basis for any of the productivity or stretch
4 factors proposed by Staff.

5 But productivity and stretch factors are different.

6 Productivity factors apply to the transmission sector as a whole while stretch factors compare the
7 relative performance of different utilities.

8 As for a productivity factor, the Board has consistently found that the transmissions sector as a
9 whole experiences negative productivity and has thus applied a productivity factor of 0[41]. Given
10 negative productivity in the transmission sector, applying a factor of 0 imposes a positive
11 productivity requirement.

12 According to the Board's SSM decision, "the stretch factor component of the incentive rate-setting
13 formula is based on utility-specific performance."[42] In that case, the Board found that a stretch
14 factor was appropriate in light of the premise that HONI would be expected to find efficiencies
15 after acquiring Sault Ste. Marie ("SSM") (previously Great Lakes Power): "Clearly, capital and
16 OM&A savings are expected to result from the integration of Hydro One SSM into Hydro One
17 Networks that is underway in 2019. The OEB finds that a stretch factor of 0.3% provides
18 incentives to find further efficiency improvement beyond those proposed by the acquisition."[43]

19 Thus, the Board found as a fact that savings to increase performance for SSM were available and
20 imposed a 0.3% stretch factor to incent that.

21 In this case, Staff simply asserts, without evidence, and incorrectly, that NextBridge's proposal
22 "does not reflect appropriate incentives to control costs."[44] The evidence is clear that NextBridge's

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[40] Staff, pp. 26-27.
[41] See Hydro One, Sault Ste Marie, Decision with Reasons, EB- 2018-0218, June 20, 2019 and Hydro One Transmission rates Decision and Order (EB-2019-0082), April 23, 2020.
[42] Sault Ste Marie, Decision with Reasons, EB- 2018-0218, June 20, 2019. p. 20.
[43] *Id.* pp. 20-21.
[44] Staff, p. 20.

1 expected OM&A costs are higher than the current Board transmission inflation factor of 2%. It
2 therefore has incentives to control costs and there is no evidence that going forward OM&A costs
3 are excessive.

4 HONI

5 Although HONI represented to the Board that its interest in this case was based on the fact that it
6 was building connection assets, and its service agreement with NextBridge,[45] it did not address
7 these issues at the hearing or in its submissions. Instead, HONI spent much of its submissions in
8 this case outside the scope of this proceeding, by transparently seeking to influence the competitive
9 landscape in Ontario, asserting that, "OEB Policy that sought to encourage new entrants to
10 transmission in Ontario…has been unsuccessful."[46] The reality is that HONI's participation in
11 this case is driven by its strategic interests, not the merits of NextBridge's revenue requirement
12 Application.

13 HONI proposes that the Board apply the NRLP settlement to NextBridge, the result of which
14 would be to reduce the Board approved inflation factor by 50% plus an additional reduction of
15 0.6%.

16 This is a departure, not only from every previous CIR decision of the Board, which applied
17 objective Board approved inflation and productivity factors, but even from the B2M settlement.
18 The B2M settlement at least incorporates the basic components of the Board's RRFE Principles in
19 that it applies an Inflation minus Productivity framework and, unlike Niagara Reinforcement, does
20 not add additional reductions to the Board approved inflation factors. However, even with B2M,
21 there is no visibility into why the parties agreed upon a high productivity factor of .6, which is
22 higher than the standard productivity factor of 0.3%.

[45] HONI's Notice of Intervention states that its interest is based on the fact that "The East-West Tie line will connect to transmission assets and facilities owned and operated by Hydro One. Hydro One is upgrading associated transmission stations to accommodate the line. Hydro One is also in negotiations to be a service provider to NextBridge".
[46] HONI, p. 40.

Even apart from what may have motivated HONI's positions in the HONI Settlements, there is no basis for treating NRLP's cost situation as similar to that of NextBridge's. The evidence on this is as follows:[47]

> MR. ENGELBERG: Are you saying then by the fact that Hydro One Networks supplies those services under SLAs with the two partnerships are different from the contract that NextBridge has with Hydro One Networks for maintenance?
>
> MS. WALDING: I'm not aware of their contracts on NRLP. I can only see from the cost that it's a very discounted cost in comparison to running a single line, which is what we are doing.
>
> So that leads somebody to believe that you couldn't operate a single facility that is really independent from Hydro One at that same level of cost.
>
> MR. ENGELBERG: Isn't the NRLP a single line, and isn't B2M LP a single line?
>
> MS. WALDING: They are, but they have an affiliate relationship that has obviously given them a lot lower cost than operating a single line.

As indicated, although HONI's ostensible grounds for participating in this application was that it had an interest in the outcome of the decision because it is building connector facilities and has a service agreement with NextBridge, its participation in the case did not address these issues. Instead, HONI's submissions focused on re-litigating the transmission Designation Application and the Leave to Construct proceedings, challenging the comparison of NextBridge's costs to the costs of HONI's affiliates, without leading to any further evidence on their affiliate costs, and ultimately seeking to argue against a competitive transmission policy in Ontario.

As for using this case to re-litigate the designation and leave to construct proceedings, the Board should let it be known that this conduct will not be tolerated.

It is also disappointing that HONI seeks to rely on its evidence from the Niagara Reinforcement case in this proceeding to compare revenue requirements with NextBridge's proposal.[48] That evidence was never tested before the OEB, so the Board cannot take judicial notice of it. HONI

[47] Transcript, Vol. 2, pp. 171-172.
[48] See HONI, pp. 28-29.

1 could have sought to introduce that evidence in this proceeding, in which case it could have been
2 challenged and tested. Because Hydro One chose not to plead this evidence, NextBridge submits
3 that this is inadmissible and the Board should disregard Hydro One's submissions on the
4 comparability of Niagara Reinforcement's settlement and NextBridge's proposal.

5 With respect to the Leave to Construct proceedings in particular, HONI makes much of the fact
6 that the government passed an order in council that had the effect of not permitting Hydro One to
7 continue its leave to construct application. The government has the authority to pass such orders
8 under the *Ontario Energy Board Act* and has done so in the past for the benefit of Hydro One.[49]

9 In an effort to shoe-horn the government's order into this case, HONI argues that, because HONI's
10 alternative line was not considered in the leave to construct application, "there is no presumption
11 of prudence of NextBridge's costs despite the granting of the leave to construct."[50] But there is no
12 relationship between granting leave to construct and the presumption of prudence. The
13 presumption of prudence for committed costs is a discrete regulatory practice that has nothing to
14 do with leave to construct. For example, the Board also regulates distributors and prescribed
15 generation by reference to prudence, and the regulation of those categories of companies do not
16 include leave to construct for their facilities.

17 The Board's consideration of prudence is exercised in setting rates and that it is this application
18 that will determine prudence. This is what the Board's decision in the LTC stated, and how
19 NextBridge has proceeded in this case.

20 HONI also argues that NextBridge's application is deficient because NextBridge has not
21 forecasted all of its future OM&A costs.[51] This misses the point of the RRFE framework. The
22 Board has rejected the approach of forecasting OM&A budgets to "comply with the [OEB's
23 Renewed Regulatory Framework for Electricity] RRFE for a Custom IR application. This would
24 essentially result in a five-year cost of service application, rather than an incentive ratemaking

[49] See, for example, Order-in-Council 701/2013, dated November 27, 2013 (attached as Schedule A).
[50] HONI, p. 3.
[51] HONI, p. 26.

1 scheme."[52] NextBridge's inclusion of ***minimal*** Test Year OM&A costs to be included in base
2 rates will provide direct savings to customers.

3 For the reasons submitted above, the Board should not permit HONI Settlement Agreements to
4 dictate financial terms to its competitors.

5 Conclusion on IRM Framework

6 In summary, NextBridge submits that its proposed CIR methodology of an inflation factor of 2%
7 (or an annually adjusted inflation factor applied to all transmitters), a productivity factor of 0%
8 with a dead band triggered by 300% overearning and an asymmetrical ESM of 50% on 100 basis
9 points over approved ROE is in line with previous Board decisions and policy. In particular, the
10 proposal incorporates the main Principles of the RRFE Policy – Decoupling, Comprehensiveness
11 and Over-Earning Mitigation (including an off-ramp and ESM). In comparison, the SEC and Staff
12 proposals depart from these Principles and the Hydro One proposal seeks to impose its NRLP
13 settlement on NextBridge without regard to other more relevant Board precedent.

14 • **Are the proposed annual updates appropriate?**
15

16 The annual updates were addressed by Staff and Energy Probe Research Foundation ("Energy
17 Probe").

18 Staff proposes the following additions to the annual updates proposed by NextBridge:

19 • Annual reporting on tracking of performance measures; and

20 • If the Board approves Staff's proposal aimed at earning an average annual return of 8.35,
21 then NextBridge should file an annual rate application to implement the OEB's inflation
22 parameters for that year.

23 Energy Probe proposes that:

24 • NextBridge's 2023 filing include an update and prudence review of the in-service capital
25 cost and clearance of the construction cost variance account ("CCVA") and debt rate
26 variance account ("DRVA"); and

[52] Decision and Order setting rates for Toronto Hydro-Electric System Limited, EB-2014-0116, December 29, 2015, p. 13.

- The reports should be similar to the reports filed in the Construction Phase along with details of the historic performance and forecasted operating cost performance measures.

NextBridge is amenable to the updates proposed by Staff and Energy Probe, with the understanding, as explained under Issue No. 6, that NextBridge objects to Energy Probe's request to defer consideration of the recovery of NextBridge's forecasted construction costs to a later time, as that Energy Probe proposal is, in part, linked to its request to update the CCVA. Since NextBridge does not agree with Staff's proposal to annually update rate base, it does not agree with Staff's proposal respecting reporting on this update.

- **Is the proposed nine year and nine-month length of the IRM plan appropriate?**

NextBridge submits that its proposed IR term of nine years and nine months is appropriate as it provides rate stability and other tangible benefits to customers and is consistent with OEB policy. With respect to rate stability and customer benefits, NextBridge submits that historical data suggests customers will receive savings for fixing the ROE for the nine-year and nine-month IR term by locking in a historically low OEB-approved ROE for the full IR term. As well, this long term certainty provides lower debt costs.[53]

The Board has explicitly described five years as the *minimum* term for incentive regulation. According to the Board, longer terms can be proposed with appropriate mechanisms for consumer protection. The mechanisms referred to by the Board are the Over-Earning Mitigation Principle and ESM,[54] both of which are proposed in this case.

Although most utilities have applied for and received 5-year IR terms, the Board approved an eight-year CIR proposal in Hydro One (SSM), i.e., from 2019 to 2026. There is no precedent for the Board reducing the term of a proposed IR plan.

Parties' submissions

As a general matter, it is difficult to isolate parties' positions on the term of the plan from the substance of the plan.

[53] Transcript, Vol 3, p. 145.
[54] OEB Rates Handbook, p. 25.

1 Thus, as set out below, many intervenors would support a ten year plan provided that their
2 substantive concerns respecting the components of the plan were adequately addressed.

3 For example, SEC acknowledges that the OEB Handbook "does allow terms greater than five years
4 …" with appropriate mechanisms in place for consumer protection and that an earnings-sharing
5 mechanism (ESM) is such a mechanism.[55]

6 Similarly, Energy Probe submits that a five-year term is not required if an asymmetric ESM with
7 a dead band of 100 basis points ROE is implemented.[56]

8 The Vulnerable Energy Consumers Coalition ("VECC") also submits that it "supports the
9 introduction of an ESM of 50/50 sharing at 100 basis points above the approved return on equity
10 and based on the assumption of a 10 year plan term".[57] In other words, VECC does support a 10
11 year IR term with the introduction of an ESM of 50/50 sharing at 100 basis points above the
12 approved ROE. Having said this, as noted below, VECC also seems to support only a shorter plan
13 term.

14 Staff confirms that under "the OEB's mergers, amalgamations, acquisitions and divesture policy
15 the OEB allows up to 10 years to defer rebasing", and that the "OEB staff supports a nine year and
16 nine-month length term with the appropriate adjustments made to NextBridge's proposal to avoid
17 overearnings", including an ESM".[58]

18 Other intervenors, such as Consumers Council of Canada ("CCC"), Association of Major Power
19 Consumers in Ontario ("AMPCO") and VECC generally support a term of four years and nine
20 months based on the broad perspective that nine years and nine months is too long a period for a
21 utility not to be subject to regulatory scrutiny.[59]

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[55] SEC, page 25 at paragraph 2.9.3. BOMA relies on SEC's closing submissions in their entirety. (See April 27, 2021 letter from A. Engel to the OEB and filed on the RESS.) HONI, including on behalf of B2M and NRLP, does not seem to challenge the IR term *per se*, but rather takes the position that the rate should not be applied over a longer term if it will result in significant over earnings, etc. Intervener MFN does not appear to have filed submissions directly on this issue.
[56] Energy Probe, pp. 15-16, section 2.2.
[57] VECC, p. 26.
[58] Staff, page 30-31, section 5.5.
[59] CCC, page 10; AMPCO, page 7; and VECC.

Given the interconnectedness of the issues of term and substance, NextBridge submits that, provided that the Board is satisfied that the substantive issues have been adequately addressed in the application along with any revisions the Board requires, then a nine year nine month term is appropriate. Although, as indicated, some parties oppose anything longer than a five year plan regardless of its substantive provisions, this position is clearly in conflict with the Board's policy of five years as a *minimum* term. As the Board has noted, "The adjudication of an application under the Custom IR method will require the expenditure of significant resources by the Board and the applicant."[60] In light of this, a generalized preference for a shorter plan is simply not enough of a justification for the Board to reduce the term of the proposed plan.

For these reasons, NextBridge submits that a nine year nine month IR term is not only appropriate in the circumstances, but also upholds the principle of regulatory efficiency in not requiring utilities to prematurely or unnecessarily return to the OEB for rebasing applications.

3. TRANSMISSION SYSTEM PLAN

- **Have investment planning processes been appropriately carried out?**

No party takes issue with the appropriateness of NextBridge's investment planning processes. Staff, however, asserts that NextBridge has not sufficiently supported the value and timing of the use of right-of-way ("ROW") cameras and bird deterrents as part of its capital plan.[61] Therefore, Staff submits that the OEB should not approve the $0.23 million in Test Year costs associated with ROW cameras and bird deterrents.

Contrary to Staff's assertion, NextBridge provided evidence on the value and timing of ROW cameras and bird deterrents. With respect to the value of these features, as explained in the Argument in Chief and detailed in NextBridge's evidence, ROW cameras and bird deterrents will offset future O&M expenses, while enhancing the reliability and safety of the East-West Tie line.[62] NextBridge also provided detailed evidence on the placement of the ROW cameras at critical river

[60] RRFE Report, p. 19.
[61] Staff, pp. 31-32.
[62] Argument in Chief, pp. 20-21; Exhibit I Staff 37(a)(b)(d)(g)(h): Exhibit B-1-6.

1 and highway crossings to increase situational awareness of these remote locations, and explained
2 that the use of these cameras will facilitate the rapid recovery, inspection, and dispatching for
3 resources to repair and restore these critical crossings, thus promoting safety and reliability.
4 Similarly, NextBridge submitted evidence on the use of bird deterrents to proactively prevent bird-
5 related faults, outages, and damage given the location of the East-West Tie line near large birds
6 such as heron, Bald Eagles, osprey, which will want to roost in NextBridge's structures.[63]
7 NextBridge provided specific examples and photographs of the bird deterrents in use,[64] and
8 explained that such deterrents are recommended by the widely accepted Avian Power Line
9 Interaction Committee's "Suggested Practices for Avian Protection on Power Lines: State of the
10 Art 2006." NextBridge also explained that affiliates of NextEra Energy Transmission, LLC's
11 ("NEET") use ROW cameras and bird deterrents throughout North America to increase
12 transmission reliability.[65] Therefore, there is a direct evidentiary nexus between NextBridge's
13 proposal to install ROW cameras and bird deterrents as proactive steps to promote rapid response
14 to outages and prevent potential outages, respectively. The use of ROW cameras and bird
15 deterrents is also prudent in light of the fact that the Independent Electricity System Operator
16 ("IESO") is relying on the East-West Tie line to provide electric service to Northwestern Ontario.[66]
17
18 With respect to Staff questioning the timing of the installation of the bird deterrents during the
19 Test Year, NextBridge explained the determination of placement of bird deterrents occurs as part
20 of post-construction maintenance inspections so NextBridge can observe where large birds are
21 roosting and install excrement or streamers countermeasures accordingly.[67] All of the above-
22 mentioned evidence on the prudence of installing ROW cameras and bird deterrents was ignored
23 by Staff's submission, which is reason enough to reject Staff's recommended disallowance as
24 unsupported and arbitrary. Furthermore, given that NextBridge's capital expenditure plan
25 proposes to install ROW cameras and bird deterrents throughout the IR term to reduce long-term
26 OM&A costs and enhance reliability, the adoption of Staff's recommended disallowance of $0.23

[63] Exhibit I Staff 37(a)(c).
[64] Exhibit I Staff 37, Attachment.
[65] Exhibit Staff 37(b)(f).
[66] Argument in Chief, p. 25.
[67] Exhibit I HONI 7(c)(ii); Transcript Vol. 1, p. 86.

million would have a chilling effect on NextBridge's plans to implement these capital items during the IR term, which, in turn, will result in lost opportunities to reduce long-term OM&A and enhance reliability. Accordingly, for these reasons, Staff's recommended disallowance should be rejected.

- **Does the 2021-2031 Transmission System Plan ("TSP") adequately address the condition of the transmission system assets?**

Given NextBridge's transmission system assets that comprise the East-West Tie line are new, Staff agrees the TSP has adequately addressed the condition of the new asset.[68] No party takes issue with NextBridge's TSP. Therefore, NextBridge TSP adequately addresses the condition of its transmission system assets.

4. PERFORMANCE

- **Is the proposed monitoring and reporting of performance adequate?**

No party or Staff takes issue with NextBridge's performance standards. Staff, however, requests that NextBridge annually report on the performance measures.[69] As explained in its Application at Exhibit D, Tab 1, Schedule 1, Page 2, NextBridge proposes to track the performance measures annually and provide the results to the OEB in its next proceeding. NextBridge is amenable to Staff's request to annually report on the performance measures.

[68] Staff, p. 32.
[69] Staff, p. 32.

1 **5. OPERATIONS, MAINTENANCE, & ADMINISTRATION COSTS**

2

3 - **Are the proposed spending levels for OM&A appropriate, including consideration**
4 **of factors such as system reliability and asset condition?**

5 Based on concerns with the Test Year compliance and administration costs, Staff requests that the
6 Board disallow $783,333 of NextBridge's OM&A Test Year costs, while Energy Probe requests
7 $166,500 be disallowed, and VECC requests that $200,000 be disallowed.[70] In contrast CCC and
8 AMPCO accept NextBridge's OM&A Test Year costs as appropriate for recovery.[71]

9

10 The evidence NextBridge provided in support of its compliance and administration costs
11 demonstrates that the Test Year costs are prudent. As explained in the Argument in Chief and in
12 NextBridge's evidence, the compliance and administration costs involve numerous required duties
13 related to the administration of the East-West Tie line and overseeing compliance with applicable
14 legal requirements. In fact, NextBridge provided specific line item cost breakouts of each
15 compliance and administration cost in JT3.4, and a detailed explanation of the required duties and
16 responsibilities in its Application at Exhibit F, Tab 4, Schedule 2, Page 3-7. At the oral hearing,
17 NextBridge also explained that the cost of the Project Director's office are based on the work that
18 needs to be completed for a line the length of the East-West Tie line, and that lines of lessor length,
19 like Bruce to Milton and Niagara Reinforcement would not need the same budget for the Project
20 Director's office.[72]

21

22 Further, NextBridge explained there was no factual basis to compare the Project Director office's
23 budget for East-West Tie line, located in remote Northwestern Ontario, to the Project Director's
24 office budgets for Bruce to Milton and Niagara Reinforcement.[73] In this regard, NextBridge's

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[70] Staff, pp 33-35; Energy Probe, pp. 22-23; VECC pp. 15-18. SEC also raises generalized concerns with compliance and administrative costs associated with O&MA, without requesting a disallowance. HONI also generally discusses OM&A withing the context of the Charles River Associates ("CRA") benchmarking study without requesting a disallowance. SEC, pp. 34-25: HONI, pp 5-24.
[71] AMPCO, p. 5; CCC, p. 8.
[72] Transcript Vol. 3, pp. 51-55, 72-75.
[73] *Id*.

Project Director, Jennifer Tidmarsh, further elaborated on why there was ample evidentiary support for the Project Director's office budget for the East-West Tie line:[74]

> What I can say is we discussed earlier about the project director at NextBridge and the amount of work that the project director will be doing over the course of the IR period. And so again, it's working a long transmission, 450 kilometres, just as a reminder, 450 kilometres of transmission line includes right of way, access roads, the managing. So as part of this the project director's office actually manages the operations and maintenance staff, and so there's -- in part of our OM&A budget there's two individuals that work on this project, and so to manage those two projects, so the project director's office does as well, so that would be managing the contracts for HONI, managing the work that's being done, oversight project management. Also, we can talk about what's in the project director's office as well, managing corporate services, so again, managing the audits, managing all those processes as well, so corporate services.

In contrast, without any factual basis to support such a comparison is reasonable, Staff's mere reference to a high level comparison of NextBridge's Project Director's office budget to that of Bruce to Milton and Niagara Reinforcement is unavailing in that it is based on a speculative and unsupported premise that the three Project Director's office budgets should be aligned and may have parity of duties and responsibilities. Indeed, Staff offers no evidence to support that the Project Director's office for Bruce to Milton and Niagara Reinforcement have the same or even similar duties and responsibilities for the director's office of NextBridge. Instead, Staff's comparison relies on inference and speculation, which is not a legal basis for disallowing $783,333 in Test Year compliance and administration costs. If Staff's requested disallowance was approved, it would result in NextBridge's compliance and administration duties and responsibilities being so understaffed that it would not be in a position to complete fundamental administrative and compliance functions of the office, some of which NextBridge is legally bound to conduct. NextBridge must perform as the owner, operator, and maintainer of the East-West Tie Line, and duties that must be performed include, but are not limited to, ensuring NextBridge's assets are properly maintained and administered; managing the two NEET field personnel; the distribution of funds to meet NextBridge's obligations, including payment of land right fees and payments to Indigenous communities and landowners; representing NextBridge at hearings; negotiating

[74] *Id.* at 73-74.

1 agreements as needed related to acquiring any additional land rights; managing and administrating
2 regulatory filings at the OEB and other agencies; tracking and managing financials; coordinating
3 audits; management of insurance, and filing tax forms.[75] All of these duties and responsibilities
4 were detailed in NextBridge's evidence, and Staff provides no evidence that NextBridge need not
5 conduct these duties and responsibilities, but, rather, relies on a baseless ratio formula to speculate
6 that it would be appropriate to discount NextBridge's compliance and administrative Test Year
7 costs.
8
9 Staff's formula is based on a superficial understanding of what may or may not be similar for
10 compliance and administration activities for Bruce to Milton and Niagara Reinforcement. Even a
11 cursory review of the Bruce to Milton's approach to OM&A,[76] for example, shows that it is
12 leveraging HONI's shared services in a manner that shows it is not operating as a stand-alone
13 company, and, therefore, does not include all the duties and responsibilities required of
14 NextBridge, which, in turn, results in Staff's comparison of NextBridge to HONI affiliates as far
15 afield from an apple-to-apple comparison. Thus, Staff's request for a disallowance lacks any
16 factual foundation, and, instead is based on pure speculation. Therefore, for these reasons, the
17 Board should reject Staff's request to disallow $783,333 in compliance and administration costs.
18
19 Energy Probe and VECC assert similar unsupported and arbitrary requests for disallowance, based
20 on nothing more than conjecture that NextBridge's compliance and administration costs may be
21 too high. For example, Energy Probe's reference to the lack of a detailed hourly rate for corporate
22 services fails to recognize NextBridge's evidence that the NEET service level agreement ("NEET
23 Agreement") will not include a hourly rate, but, instead, will be based on the salary of the NEET
24 employee without any inclusion of a corporate allocation change for corporate services. Energy
25 Probe also ignores that for these reasons the NEET Agreement creates meaningful customer
26 savings over having NextBridge hire employees.[77] Further, VECC's re-calculation of compliance
27 and administration Test Year costs by combining and deducting from different buckets of costs is
28 flatly an arbitrary exercise without any evidentiary support. Therefore, as with Staff's request for

[75] Exhibit F-4-2.
[76] EB-2015-0026, Exhibit C1-2-1; Exhibit C1-3-1, Attachment 1, Table 3 and Exhibit A.
[77] JT 3.4; Exhibit F-4-2.

1 disallowance, the requests of Energy Probe and VECC should be rejected, and, based on the
2 evidence submitted by NextBridge, its OM&A Test Year expenses should be approved as
3 proposed.
4
5 • **Are the amounts proposed to be included in the revenue requirement for income**
6 **taxes appropriate?**
7
8 No party nor Staff take issue with NextBridge's proposed amounts for income taxes in its revenue
9 requirements. Therefore, based on the evidence submitted by NextBridge, the Board should find
10 NextBridge's proposed amounts for taxes are appropriate.[78]
11
12 • **Is the proposed depreciation expense appropriate?**
13
14 No party nor Staff take issue with NextBridge's proposed depreciation expense. Staff also
15 supports the use of a full year of depreciation, given that NextBridge is a new partnership with one
16 asset that will be placed into service one day prior to the start of the Test Year on April 1, 2022.[79]
17 Thus, based on the evidence submitted by NextBridge, the Board should find that NextBridge's
18 proposed depreciation expense is appropriate.[80]
19
20 • **Are the services to be provided by third-parties, and their associated costs,**
21 **appropriate?**
22 Staff, SEC, and Energy Probe question the costs associated with the NEET Agreement for the
23 following reasons: (1) the NEET Agreement was not competitively bid or compared to market;
24 (2) it is unclear whether the NEET Agreement costs are the most cost-effective for the services to
25 be provided; and (3) the NEET Agreement increases approximately three percent annually over
26 the IR term which is higher than the Ontario's energy sector's current inflation parameters.[81] No
27 other party takes issue with NextBridge's contracting with third parties or their associated costs,
28 including the NEET Agreement.

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[78] Exhibit F-2-1.
[79] Staff, p. 37.
[80] Exhibit C-1-1; Exhibit C-4-1, Attachment 3; F-11-1; Exhibit F-2-1.
[81] Staff, p. 38; SEC, pp. 34-35 Energy Probe, p. 23.

1 With respect to whether the NEET Agreement is cost-effective and consistent with competitive
2 and market considerations, contrary to the claims of Staff, SEC, and Energy Probe, NextBridge
3 explained at the oral hearing that it did conduct such an analysis, which clearly demonstrated that
4 the NEET Agreement was the most cost-effective approach when combined with the contract for
5 certain services from HONI/Supercom:[82]

> 6 . . . we ran three different scenarios. The first scenario was that NEET would do all
> 7 the work, so they would do a hundred percent of all of the OM&A operations,
> 8 including vegetation management. The second one was that we would put out to
> 9 competitive tender. We would get bids from the outside marketplace to have them
> 10 do all the OM&A, so minimal oversight from NextBridge under -- with minimal
> 11 oversight from NextBridge, but they would do that and we would have a third party
> 12 do all the work. And the final one was a hybrid, a split between the two, where we
> 13 would go out to competitively tender a portion of the work and that NextBridge
> 14 would then manage the rest. And so we costed out those three models using all of
> 15 the competitive pricing that we received from the marketplace when we ran our
> 16 competitive procurement for our operations and maintenance, and determined that
> 17 the costs that were to be charged by NEET were actually more competitive and
> 18 more -- there was more cost savings to have NEET do portions of the work than it
> 19 would be for -- to outsource that completely. And so we came up with a hybrid
> 20 model where NEET did portions of the work, and in the end we would be hiring
> 21 Hydro One and Supercom to do other portions of the work. . . . . the costs that we
> 22 did have in front of us were the costs that we received from Hydro One and from
> 23 the other vendors that came from our competitive procurement process, the costs
> 24 that we had from Enbridge partnership and NextEra's own costs, and comparing
> 25 those costs together, it was determined that NextEra could do portions of this at a
> 26 more competitive rate than its partners or the costs that we received from our
> 27 competitive process for the operations and management contract.

28 NextBridge further explained that the evaluation also compared the rate secured during the
29 request for proposal for the operations and maintenance services to NEET's costs, and it
30 was demonstrated from that comparison that NEET was the most cost-effective provider
31 of certain services, when combined with HONI/Supercom to conduct certain operations
32 and maintenance services.[83]

[82] Transcript Vol. 3. Pp. 82-84.
[83] *Id.* p. 84-85.

1 Furthermore, the reasonableness of the NEET Agreement is supported by the fact that the financial
2 and pricing terms in the NEET Agreement are the same as those used in the current partnership
3 agreement.[84] Those terms have been shown to be reasonable in the context of the partnership's use
4 of internal resources to work on the construction of the East-West Tie line, while at the same time
5 maintaining the construction costs at the same forecasted level as that set forth in the Leave to
6 Construct.[85] In its Application at Exhibit F, Tab 6, Schedule 1, page 1, NextBridge further
7 elaborated on these financial and pricing terms:

8 NextBridge will not be charged a flat or already determined corporate cost
9 allocation from any parent or partner entities. Charges where appropriate, will come
10 from personnel directly supporting NextBridge. Personnel account for the amount
11 of time spent on NextBridge work in a time recording system. The resulting cost
12 NextBridge will receive is that amount of time, worked on NextBridge, multiplied
13 by the earnings paid to that employee. The earnings include the hourly amount of
14 salary plus an adder representative of the benefits paid to that employee.
15

16 At the oral hearing, NextBridge also confirmed that the NEET Agreement does not include a stated
17 rate for a service, but, instead, will be based on the amount that a NEET employee works and their
18 individual payroll cost.[86] Therefore, not only did NextBridge conduct a market analysis of the
19 NEET Agreement, but the agreement's financial and pricing terms have already been shown to be
20 reasonable under the current partnership agreement. NextBridge also submits that contracting with
21 NEET provides customer savings over NextBridge hiring employees to provide these services, a
22 fact that is undisputed.[87]

23

24 Relatedly, Staff's submission incorrectly provides "NextBridge has agreed to increase the NEET
25 costs at a rate of approximately 3% per annum over the IR term."[88] At the oral hearing, NextBridge
26 testified that Staff's characterization of the NEET Agreement was incorrect, and that there was no
27 agreement on the three percent inflation escalator.[89] Furthermore, any increase in the NEET
28 Agreement over the IR term, whether it be at 3% percent or not, are costs that NextBridge will be

[84] Exhibit I Staff 11(d); Exhibit I Staff 28(a); Transcript Vol. , p 54.
[85] Transcript Vol. 3, p. 83.
[86] Transcript Vol. 3, p. 79.
[87] Exhibit F-4-2.
[88] Staff, p. 38.
[89] Transcript, Vol. 3, pp. 50-51.

required to manage and incur, because NextBridge has committed not to seek recovery increases above Test Year OM&A during the approximately 10 year IR term, absent OM&A that qualifies for inclusion in a Z-Factor event(s).[90] Thus, while Staff and SEC speculate that the NEET Agreement may escalate at a rate of 3%, even if it did, as explained under Issue No. 2, *supra,* that is a cost that would be borne by NextBridge, not customers. Accordingly, the record shows that the NEET Agreement is appropriate, because (1) NextBridge conducted a market-based analysis that determined which were the most cost effective services for NEET to perform when combined with the HONI/Supercom agreement; (2) NEET's costs are appropriately limited to the amount of time a NEET employee provides the OM&A service based on their salary without being charged a flat or already determined corporate cost allocation from NEET; and (3) any cost increases due to the NEET Agreement over the IR term will be paid by NextBridge, not customers.

6. RATE BASE & COST OF CAPITAL

- **Are the $737 M construction costs and $5.3 M Phase Shift costs prudent for recovery?**

- **Are the amounts proposed for rate base appropriate?**

No party opposes recovery of the $5.3 million in phase shift costs or the spare equipment strategy of NextBridge. Also, there is no dispute with regard to the calculation of the rate base, outside the requests for disallowance or delaying a decision on the prudence of NextBridge's forecast construction costs. More specifically, AMPCO submits that the OEB should accept NextBridge's forecasted $737.1 million in construction costs, explaining that (1) the forecasted construction costs are consistent with the costs forecasted in the Leave to Construct proceeding; (2) NextBridge has no uncertainty regarding its forecasted construction costs; (3) the East-West Tie line is essentially at a 100% engineering design, and (4) nearly 90% of the construction costs are under contract.[91] For similar reasons, SEC and CCC do not take issue with NextBridge's recovery of the forecasted $737.1 million in construction costs.[92]

[90] Exhibit F-6-1.
[91] AMPCO, pp. 5-7.
[92] SEC, pp. 26-27; CCC, pp. 5-6.

Conversely, Staff seeks a disallowance of $23.4 million based on its supposition that the only direct evidence supporting recovery of the construction costs is the CRA benchmarking study, and that using data from the CRA study is appropriate to disallow any costs that are above Niagara Reinforcement's $1.66 million per kilometre figure.[93] VECC also seeks a disallowance of $5 million based on an illogical position related to the not-to-exceed ("NTE") price request of the OEB in the Leave to Construct proceeding.[94] In addition, Energy Probe does not support recovery of NextBridge's $737.1 million construction cost figure at this time, because Energy Probe claims it is not firm, and, therefore, NextBridge should update its construction costs in the fourth quarter of 2021 or the first quarter of 2022.[95]

With respect to Staff's proposed disallowance, Staff's premise that the CRA benchmarking study is the only evidence "that speaks" to the prudence of NextBridge's construction costs is fundamentally incorrect. For example, Staff completely ignores the direct and substantial evidence submitted in NextBridge's Application that includes detailed and specific evidence on NextBridge's cost management and procurement practices that resulted in not only securing nearly 90% of the forecasted construction costs under contract, but also that the vast majority of contracts and procurements were competitively bid, including: steel pole structures; towers; conductor; overhead ground wire; optical ground wire; engineering; procurement, construction activities; environmental activities, such as preparing detailed project plans, obtaining work permits, and obtaining a variety of environmental permits such as waterbody crossing permits, species at risk permits; and construction compliance with environmental conditions.[96] Furthermore, support for the conclusion that NextBridge's detailed evidence on the competitive solicitation of its construction contracts and procurement is an evidentiary showing of prudence is found in the OEB's recent finding of prudence for the costs associated with Halton Hills Hydro, Inc.'s ("Halton

[93] Staff, pp 38-41. Staff's math on the disallowance is as follows: "Multiplying the $1.66 million per kilometre benchmark value (for NRLP) by the 450 km length of NextBridge's project results in a value of $747 million. This is $23.4 million less than the $770.4 million of average rate base for which NextBridge is seeking approval."
[94] VECC, pp. 5-8.
[95] Energy Probe, pp. 26-27, 32, 39.
[96] See Exhibit C-2-4.

1 Hills") new municipal transformer station, which included Halton Hills' evidence that
2 procurement was conducted through a competitive bidding process.[97] In addition, in this
3 proceeding, AMPCO, CCC, and SEC recognize and point to NextBridge's direct and substantial
4 evidence, including its competitive bidding practices, as evidentiary support for the recovery of
5 NextBridge's forecasted construction costs of $737.1 million. For example, in addition to
6 AMPCO's supportive argument set forth, *supra*, SEC's Final Argument concluded:

> 7 The forecast construction costs are consistent with what was forecast in the leave
> 8 to construct proceeding. Based on the quarterly updates provided to the Board since
> 9 that date, the total remains on budget with about 60% having already been spent,
> 10 and 90% currently spent or under contract.
> 11
> 12 SEC is also comforted by the fact that the most significant component of the
> 13 construction costs is the work undertaken by its major construction contractor.
> 14 NextBridge's evidence is that it undertook a competitive procurement process for
> 15 a general contractor under a fixed-price hybrid engineer, procure and construct
> 16 ('EPC') contract, and selected Valard Construction ('Valard') for the work.
> 17 NextBridge's evidence is that, with one exception regarding the change in the in-
> 18 service date, where the cost increase is being absorbed by the allocated
> 19 contingency, there have been no change orders under the contract.

20

21 Additionally, CCC's Final Argument concluded:

> 22 Given that 90% of the construction costs have been spent or are currently under
> 23 contract the Council has no reason to take issue with the construction cost estimate
> 24 of $737.1 million. In its Quarterly Report filed with the OEB on April 22, 2021
> 25 NextBridge stated that, 'Known construction costs for the EWT Project are forecast
> 26 to be on budget as compared to the LTC application.

27

28 Accordingly, as recognized by AMPCO, SEC, and CCC, NextBridge's specific and detailed
29 evidence demonstrates the prudence of its $737.1 million in forecasted construction costs.
30 Therefore, full recovery of NextBridge's forecasted construction costs is appropriate.

31

32 Conversely, the flaws in Staff's submission are numerous. For example, consider that Bruce to
33 Milton and Niagara Reinforcement rate applications (i) did not include a benchmarking study, and,
34 (ii) even a cursory comparison review of the record in those proceedings to the evidence submitted
35 by NextBridge in this proceeding shows that NextBridge provided substantially more evidence

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[97] *Halton Hills Hydro Inc.,* Decision and Rate Order, EB-2018-0328 (April 4, 2019).

1 demonstrating the prudence of its construction costs. NextBridge does not take any issue with the
2 recovery of construction costs in the Bruce to Milton and Niagara Reinforcement proceedings, but,
3 rather, references these cases to show the fallacy in Staff's logic, because following Staff's logic
4 that a benchmarking study is the only evidence of prudence for construction costs would result in
5 no recovery of construction costs for Bruce to Milton and Niagara Reinforcement, which was not
6 the case in either proceeding.
7
8 Staff's submission is additionally flawed in that it uses the CRA benchmarking study for a purpose
9 it was not intended. Chapter 2 of the OEB's filing requirements state that the cost benchmarking
10 studies are for the following purposes: "to support cost forecasts … given the assistance it can
11 provide in establishing the reasonableness of costs" … "to support the applicant's proposed
12 expenditures".[98] The OEB does not use a benchmarking study to determine the construction or
13 OM&A costs of a transmitter using the lowest cost per kilometre figure in the benchmarking study,
14 as proposed by Staff. Instead, as articulated in filing requirements, , the benchmarking study is
15 used to support the overall range of reasonableness of the construction and OM&A costs, and, this
16 is precisely why NextBridge submitted the benchmarking study to show that NextBridge's costs
17 were within a reasonable range. The CRA benchmarking study was not intended to show without
18 any qualification that NextBridge was the lowest project on a per kilometre basis. Rather, it was
19 intended, and did show, that NextBridge's construction and OM&A costs are reasonable when
20 considered in the context of comparable projects.[99] As already explained, NextBridge's direct and
21 substantial evidence of prudence as submitted in its Application, which is further supported by its
22 quarterly reports, responses to interrogatories, and testimony at the oral hearing demonstrates the
23 prudence of NextBridge's forecasted construction and OM&A costs. Accordingly, Staff's misuse
24 of the CRA benchmarking study to support a disallowance of NextBridge's construction and
25 OM&A costs should be rejected.
26

[98] Filing Requirements for Electricity Transmission Applications, Chapter 2, Revenue Requirement Applications pp. 2, 17 (February 11, 2016).
[99] Exhibit B-1-7, Attachment 1; JT 3.1.

1 Additionally, the criticism of Staff and HONI of the CRA benchmarking study do not affect the
2 purpose of the study, which was to show that NextBridge's construction and OM&A costs are
3 within the range of reasonableness when compared to similar projects. For example, oddly, Staff
4 is critical of the calculation in JT3.1, because it did include an explanation of the method;[100] yet
5 the calculation in JT3.1 is straightforward using the information provided in the table and only
6 involves the sum of NextBridge's costs in the table divided by 450 kilometres. Also, any
7 reasonable reading of HONI's criticisms fail to undermine the results of the CRA benchmarking
8 study which shows that NextBridge's construction and OM&A costs are within the range of
9 reasonable costs when compared to other similar transmission projects.[101]
10
11 For example, HONI speculates that the comparison to the BC Hydro Northwest Transmission Line
12 ("BC NTL") should be thrown out since the line was built by the same general contractor
13 NextBridge is using on the East West Tie line. HONI is wrong. As stated in the CRA Study, the
14 BC NTL line was chosen because of its comparable size, voltage, terrain, and technology (it also
15 uses guyed y towers), not because it uses the same general contractor. HONI also asserts that
16 because the project is not in Ontario that also makes it inadmissible. HONI does not elaborate as
17 to why a project with comparable size, voltage, terrain, and technology should make a difference
18 in construction costs just because it is in a different province. Similarly, HONI's assertion that the
19 Alberta Electric System Operator transmission AESO projects are not comparable simply because
20 those projects that are out of province is without merit.
21
22 Hydro One claims that "the results for the Benchmarking Study would have been quite
23 different"[102] if select adjustments were made and that the costs per kilometer would have increased
24 in the comparator projects. However, HONI failed to make an evidentiary showing that the
25 numbers impact NextBridge's construction costs. Even with respect to the transmission projects
26 where HONI has the most knowledge (Bruce to Milton and Niagara Reinforcement), HONI has
27 not done any calculation, nor does its selective discounting of transmission projects, impact the

[100] Staff, p. 40.
[101] HONI, pp. 5-24.
[102] HONI, p. 10.

1 validity of CRA's overall conclusion that the East-West Tie line is withing the reasonable range
2 of cost per kilometre basis when compared to other transmission projects.
3
4 At one point HONI notes that "one would expect economies of scale to be realized on projects of
5 the scale of the EWT"[103] when it points out that Bruce to Milton is shorter than the East West Tie
6 line. As discussed, *supra*, HONI, and its transmission affiliates, is in fact a direct beneficiary of
7 economies of scale due to allocating OM&A costs over its entire transmission portfolio instead of
8 direct charges to its affiliates. Despite this advantage, the East West Tie remains comparable on a
9 cost per kilometre basis.
10
11 HONI spends much time in its argument on the CRA Study addressing NextBridge's minimal
12 OM&A costs and claiming NextBridge's OM&A costs will increase; however, HONI fails to
13 acknowledge that the risk to rising cost pressures on its OM&A costs over the IR Term will be
14 borne by NextBridge and, *those costs will not be borne by the ratepayers of Ontario,* which, as
15 explained under Issue No. 2, *supra,* is the quintessential point of NextBridge's Custom IR
16 application.
17
18 Accordingly, the criticisms of Staff and HONI on the CRA benchmarking study are without merit,
19 and, therefore, the study still holds for the fact that NextBridge's construction costs are in a
20 reasonable range when compared to other transmission projects.
21
22 VECC's proposed disallowance of $5 million in construction costs is equally as arbitrary and
23 unsupported as Staff's requested disallowance. VECC claims that there is a connection between
24 the OEB's decision in the Leave to Construct proceeding regarding a NTE price and a disallowance
25 of $5 million in forecasted construction costs in this proceeding. VECC proposal is based on pure
26 speculation, as NextBridge did not submit a NTE price. Furthermore, NextBridge submits that
27 VECC's arbitrary request for disallowance fails in light of the direct and substantial evidence that
28 NextBridge filed in this proceeding demonstrating the prudence of its forecasted construction
29 costs, which, as already discussed, are supported by AMPCO, SEC, and CCC. Further, there is no

[103] HONI, pp. 12-13.

1 factual or legal basis upon which VECC's misplaced nexus between the request for a NTE price
2 in the Leave to Construct proceeding provides a foundation for any disallowance in this
3 proceeding. Accordingly, VECC's request should be rejected.
4 Similarly, Energy Probe's request to delay a finding on the prudence of NextBridge's forecasted
5 construction costs is without merit. Contrary to Energy Probe, as already explained, the evidence
6 in this proceeding shows that NextBridge's forecasted construction costs are not likely to change,
7 absent COVID or an unforeseeable event(s).[104] In addition, in order to exercise its option to
8 purchase equity in the East West Tie line, Bamkushwada LP ("BLP") must secure debt financing
9 well in advance of the in service date. Potential debt providers to First Nations are acutely aware
10 that any disallowed costs at the project level are a direct risk to equity cash flows and therefore the
11 cash available to service their debt. A high degree of uncertainty on the rate base and the equity
12 cash flows available to BLP, will not allow BLP to access the debt markets in Canada from
13 reputable debt providers.[105] Thus, given that there is no basis for Energy Probe's request to delay
14 a finding on the prudence of the forecasted construction costs and the harm it would cause to BLP,
15 the request should be rejected.
16
17 Accordingly, for all the above reasons, NextBridge's forecasted construction costs of $737.1
18 million should be approved, including the associated amounts included in rate base.
19

20 • **Is the proposed cost of capital, including the current forecast of long-term debt**
21 **and the proposed 2023 update of the cost of long-term debt, appropriate?**
22
23 Staff, SEC, HONI, Energy Probe, CCC, and VECC request NextBridge use the 2022 cost
24 parameters to update its cost of capital and revenue requirements when issued by the Board.[106]
25 NextBridge is amendable to updating its cost of capital and revenue requirements with the Board's
26 2022 cost parameters that will be issued in the fourth quarter of 2021. No parties take issue with
27 NextBridge's proposal to update the cost of long-term debt as proposed in the Application.[107]

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[104] See Argument in Chief, pp. 32-34.
[105] Exhibit I Staff 5.
[106] Staff, p. 45; SEC, p. 33; HONI, p. 30, Energy Probe, p. 7, 28; CCC, p. 9; VECC, p. 19.
[107] Staff and the parties also discuss the cost of capital in the context of NextBridge's RCI proposal, which are addressed under Issue No. 2, *supra*.

Therefore, NextBridge's proposed cost of capital, as updated with the OEB's 2022 cost parameters and the actual cost of the debt should be approved.

- **Is NextBridge's response to COVID-19 appropriate?**

No party takes issue with NextBridge's response to COVID-19. Staff, however, asserts it is not possible to take a position related to NextBridge's response to COVID-19, because there is not sufficient evidence in the record and the pandemic is on-going.[108] NextBridge disagrees.

As explained in its Argument in Chief, there is substantial evidence in the record that NextBridge timely and meaningfully implemented mitigation against the impact of COVID-19 related to the construction schedule and costs of the East-West Tie line, and took steps to protect the health and welfare of the communities in close proximity to the line and construction workers.[109] While NextBridge will not repeat those arguments here, even a cursory review of NextBridge's evidence shows its response to COVID-19 has been timely and meaningful to the affected communities and workers, and, appropriate in light of the challenges posed by COVID-19. In this regard, contrary to a random assertion of SEC that NextBridge has not mitigated any COVID-19 related costs, [110] NextBridge's avoidance of an additional $15-20 million in COVID-19 related construction costs to build all season roads in environmentally sensitive caribou habitat in order to make the original Q4 2021 in service date is direct evidence that NextBridge is actively managing any significant cost increases that arise. In order to avoid this cost, NextBridge worked with the IESO and determined that moving the in service date to March 31, 2022 would not cause any harm to reliability in the region or impose additional costs to the system. Thus, contrary to Staff's submission and SEC's assertion, there is more than enough evidence in this proceeding to conclude that NextBridge's response to COVID-19 was appropriate.

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[108] Staff, p. 48.
[109] Argument in Chief pp, 38-40; Exhibit C-2-4; Exhibit C-1-1, Attachment 3 (October 22, 2020 Quarterly Report); Exhibit I Staff 55; NextBridge January 22, 2021 Quarterly Report; Exhibit I Staff 42(a); Exhibit I SEC 9, Attachment.
[110] SEC, p. 27.

- **Is NextBridge's proposed treatment of COVID-19 related costs appropriate?**

AMPCO has no concerns with NextBridge's proposal to track COVID-19 related costs beyond the in-service date in the CCVA,[111] while CCC supports deferral treatment.[112] Staff, SEC, and VECC generally agree that NextBridge should use Account 1509 to record the associated revenue requirements with its COVID-19 costs in a separate subaccount, so the costs are easily identifiable.[113] HONI submits that if the Board grants NextBridge an account for COVID-19 costs, it should be required to be in a separate variance account for COVID-19 costs only, and the account should identify which costs are OM&A versus capital.[114] Energy Probe asserts that NextBridge should use the same recovery framework for COVID-19 costs as other transmitters.[115]

Although there is general agreement that NextBridge should be authorized to track the revenue requirements related to COVID-19 costs, there is a preference among Staff and certain parties that the tracking of these revenue requirements occur in Account 1509. Although NextBridge submits that its proposal to track the revenue requirement associated with COVID-19 costs in the CCVA is appropriate, and would separately track COVID-19 costs as requested by Staff and certain parties,[116] if the Board prefers, NextBridge is amenable to track the revenue requirements associated with COVID-19 costs in Account 1509, with the understanding that since NextBridge's COVID-19 costs are directly related to the construction of the East-West Tie line, they are properly accounted for as capital costs, which also means the application of interest during construction.[117] NextBridge would bring forward for Board review and disposal of Account 1509 in the second annual update following in-service.

[111] AMPCO, p. 8.
[112] CCC, p. 7.
[113] Staff, p. 51; SEC, p. 30, VECC, p. 10.
[114] HONI, pp. 32-33, 42.
[115] Energy Probe, p. 30.
[116] See Argument in Chief, pp. 40-41.
[117] Exhibit H-1-1; Exhibit I SEC 17.

1
2 Also, contrary to Energy Probe's request, the tracking of the revenue requirement associated with
3 COVID-19 construction-related costs in the CCVA, or, in the alternative, Account 1509, is
4 appropriate in light of the OEB's recent recognition that NextBridge, as a greenfield utility
5 constructing the East-West Tie line, presents unique issues related to the ratemaking treatment of
6 COVID-19 costs, which should be determined in this proceeding.[118] Therefore, subject to the
7 Board's determination of which account to track the COVID-19 related revenue requirements, the
8 record in this proceeding supports the establishment of an account in which the COVID-19 costs
9 are considered capital, including the use of interest during construction.
10
11 **7. <u>DEFERRAL & VARIANCE ACCOUNTS</u>**
12
13 - **Are the proposed deferral and variance accounts, and the proposed scope and**
14 **timing for disposition of these accounts appropriate?**
15
16 NextBridge seeks the establishment of the following variance accounts: (1) a CCVA effective
17 November 4, 2020; (2) a DRVA effective April 1, 2022; (3) a RDVA effective April 1, 2022; and
18 (4) a taxes variance account ("PILsVA") effective April 1, 2022. NextBridge also proposes using
19 a Z-Factor consistent with Section 2.8.12 of the Transmission Filing requirements.[119] With the
20 exception of Staff's recommendation with regard to the RDVA addressed under Issue No. 1, *supra*,
21 and Energy Probe's request to defer consideration of construction costs and update the costs in the
22 fourth quarter of 2021 or first quarter of 2022 (which is addressed under Issue No. 6, *supra*), with
23 a concurrent update of the CCVA at that time,[120] no party or Staff take issue with the timing and
24 deposition of these variance accounts. As explained next, Staff and the parties, however, do take
25 positions on certain aspects of the accounts, all of which are without merit and should be rejected.
26
27 **<u>CCVA</u>**
28

[118] OEB Letter, Consultation on the Deferral Account – Impacts Arising from the COVID-19 Emergency, EB-2020-0133 (April 13, 2021).
[119] Exhibit B-1-4; Exhibit F-16-1.
[120] Energy Probe, p. 32.

1 NextBridge proposes the CCVA to track any change in the revenue requirement associated with
2 the difference between the forecasted construction costs set forth in the Application and the actual,
3 final construction costs, including interest during construction.[121]
4
5 The amounts recorded in the CCVA will be subject to a determination of prudence before the
6 disposal and adding the revenue requirements to the UTR. As a result, the CCVA is aligned with
7 both the central premise that prudently incurred costs are included in base rates and that the proper
8 method for recording future cost adjustments for inclusion in rate base is through a variance
9 account.
10
11 With respect to prudence, NextBridge's proposed CCVA ensures that prudently incurred capital
12 costs related to forward test year investments are included in rate base and are recoverable by
13 shareholders. For example, the Board has concluded that, "Going into PBR, distribution rates are
14 set based on a cost of service review." [122] Indeed, a central part of the Board's review is the
15 determination of prudence as a condition for recovering costs.
16
17 Although the Board is not required to use cost of service to set rates, and is not required to include
18 all proposed capital costs in rate base in a cost of service review, it does not have the discretion to
19 refuse the inclusion of prudently incurred costs in a cost of service review.
20
21 For these reasons, the Board has rejected proposals that would prevent the inclusion of costs in
22 OPG's proposed Capacity Refurbishment Variance Account ("CRVA") because "The potential
23 outcome of the proposal is that prudently incurred CRVA eligible costs will be disallowed for
24 recovery."[123]
25

[121] Exhibit C-2-4; Exhibit H-1-1; Exhibit H-1-1, Attachment 3 (CCVA draft accounting order).
[122] RRFE, p. 11.
[123] Decision and order in OPG Application for payment amounts for 2017 to 2021, December 28, 2017 (EB-2016-0152), p. 23. It should be noted that the regulation under which this account was opened permitted recovery of prudently incurred costs. However, demonstrating prudence imposed a *restriction* on recovery. The entitlement to recover prudently incurred costs was assumed in the regulation: See Ontario Regulation, 53/05, s.2.

1 The Board's recognition that prudently incurred costs are recoverable in a cost of service review
2 follows the jurisprudence of the Supreme Court of Canada. For example, in *OPG*, the Court noted
3 that "The prudent investment test, or prudence review, is a valid and widely accepted tool that
4 regulators may use when assessing whether payments to a utility are just and reasonable."[124] In
5 that case, the Court held that, although the Board has jurisdiction respecting the methodology to
6 determine prudence, that does not take away from the requirement to permit the recovery of
7 prudently incurred costs:[125]
8
9 "I emphasize, however, that this decision should not be read to give regulators *carte*
10 *blanche* to disallow a utility's committed costs at will. Prudence review of
11 committed costs may in many cases be a sound way or ensuring that utilities are
12 treated fairly and remain able to secure required levels of capital investment. As
13 will be explained, particularly with regard to committed capital costs, prudence
14 review will often provide a reasonable means of striking the balance of fairness
15 between consumers and utilities."
16
17 The inclusion of prudently incurred capital costs in a cost of service rate base is also an inherent
18 component of the fair return standard, another legally binding rate making requirement:
19
20 The Board is of the view that the FRS [i.e., the fair return standard] frames the
21 discretion of a regulator, by setting out three requirements that must be satisfied by
22 the cost of capital determinations of the tribunal. Meeting the standard is not
23 optional; it is a legal requirement. As set out by Enbridge in their final comments,
24 the Supreme Court of Canada has "described this requirement that approved rates
25 must produce a fair return as an 'absolute' obligation.'[126]
26
27 Thus, although the Board has the authority to depart from cost of service rate regulation, and does
28 so for annual revenue adjustments throughout the term of an IR plan, a cost of service review going
29 into a rebasing does commit the Board to allow the recovery of prudently incurred costs in rate
30 base.
31

[124] *OPG*, Paragraph 102.
[125] *OPG*, paragraph 104.
[126] Board's Report on Cost of Capital, December 11, 2009, p. 18, citing *British Columbia Electric Railway Co. Ltd. v. Public Utilities Commission of British Columbia et al* [1960] S.C.R. 837, at p. 848.

1 It is also conventional practice to use a variance account to record costs that can be reviewed for
2 prudence. The only difference between the revenues to be recorded in the CCVA and the currently
3 proposed construction costs is that the latter are known now and the amounts in the CCVA are
4 currently unknown. This is precisely what a variance account is meant to capture. According to
5 the Board:
6
7 > Variance accounts track the difference between the forecast cost of a project
8 > or program, which has been included in rates, and the actual cost. If the
9 > actual cost is lower, then the extra money is refunded to customers. If the
10 > actual amount is higher, then the utility can request permission to recover
11 > the extra amounts through future rates.[127]
12
13 NextBridge's proposed CCVA, therefore, makes use of conventional OEB practices to address the
14 prudence of construction costs in rate base.
15
16 Contrary to the Board's practices, AMPCO does not support using the CCVA to record the change
17 in revenue requirement for changes in construction costs, because the design of the East-West Tie
18 line is essentially complete, the construction costs are known and tracking to forecast of $737.1
19 million.[128] For similar reasons, Staff and VECC do not support NextBridge's CCVA; Staff also
20 asserts that the post in-service environmental costs should be considered OM&A, not capital.[129]
21 HONI also opposes the establishment of a CCVA for tracking of construction costs, claiming that
22 any unknown events that result in additional construction costs can be addressed through the Z-
23 Factor account.[130] HONI further submits that the use of a CCVA for post construction costs should
24 be related to agency-imposed environmental compliance and associated commitments by
25 NextBridge related to construction only,.[131] While CCC does not oppose the establishment of the
26 CCVA, CCC proposes the following modifications: (1) the CCVA should only be asymmetrical
27 in favor of any reduction in forecasted construction costs being refunded to customers;[132] and (2)

[127]Decision and Order setting Oshawa PUC Distribution Rates, November 12, 2015 (2014-0101), p. 34
[128] APMCO, p. 8.
[129] Staff, pp. 54-56; also see SEC, p. 31; HONI, p. 37; VECC, p. 9.
[130] HONI, pp. 33-37.
[131] HONI, pp. 37-39.
[132] Also, see Staff p. 55; Energy Probe p. 32; SEC, pp. 28-30; VECC, pp. 9.

1 NextBridge should be allowed to defer in the CCVA and seek approval of the revenue
2 requirements associated with post construction costs associated with the Overall Benefits Permit
3 and the Amended EA, as these costs are beyond NextBridge's control and are currently unknown
4 environmental compliance costs that have yet to be incurred and are not part of the $737.1 million
5 in forecasted construction costs.[133]
6
7 Although Staff and the parties are correct that NextBridge is confident that it is tracking to its
8 forecasted construction costs of $737.1 million, as a linear transmission project in the remote and
9 challenging terrain of Northwestern Ontario there is a reasonable possibility that NextBridge could
10 prudently incur construction costs above those forecasted, and, therefore, NextBridge should not
11 be foreclosed from seeking recovery of such prudently incurred construction costs. If NextBridge
12 was foreclosed from pursuing recovery of additional prudently incurred construction costs, as
13 proposed by the Staff and the parties, and it did incur such costs, it would result in a *de facto*
14 disallowance and NextBridge under-earning without any regulatory recourse. In this regard, the
15 case references of the parties involve Ontario utilities with multiple assets that can manage the
16 timing and schedules of capital additions, and, also, utilities that have past forecasts of similar
17 construction projects upon which to base the proposed forecasted construction costs in light of the
18 risk that they may have some construction costs above the forecast and still be able to earn their
19 authorized ROE. Contrariwise, the evidence in this proceeding shows NextBridge is not in a
20 similar position to those utilities. The East-West Tie line is NextBridge's first and sole asset,
21 which is being constructed in Northwestern Ontario which has not experienced the construction of
22 a new transmission line for decades.[134] There is no meaningful practical and legal comparison
23 between NextBridge's construction of the East-West Tie line and other Ontario utilities referenced
24 by the parties, and, therefore, there is no basis upon which to reject establishing a CCVA or limiting
25 the CCVA to an asymmetrical tracking of revenue requirements below the forecasted $737.1
26 million.
27

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[133] CCC, pp. 6-7.
[134] Exhibit I Staff 71.

1 Additionally, similar to the discussion under Issue No. 2, *supra*, adoption of Staff and the parties'
2 positions on the CCVA would result in a negative credit rating for NextBridge as the credit
3 agencies would view adoption of these positions as foreclosing NextBridge from earning its
4 authorized ROE, which, in turn, would result in higher costs of actual debt to be disposed of
5 through the DRVA.[135] Furthermore, Staff and the parties also ignore that NextBridge has the
6 burden to demonstrate the prudence of any construction costs above $737.1 million when it seeks
7 disposition of those costs.[136] Therefore, the positions of Staff and the parties seeking to eliminate
8 NextBridge's opportunity to track revenue requirements associated with any construction costs
9 above forecasted costs is not supported by their submission's references to other Ontario utilities,
10 and would inappropriately foreclose NextBridge from even having the opportunity to seek
11 recovery of prudently incurred construction costs, which, in turn, would result in a *de facto* under-
12 earning if additional construction costs were prudently incurred, and, also result in financial
13 institutions charging a higher costs of debt to NextBridge, which would ultimately borne by
14 customers. Simply put, the ill-considered positions of Staff and the parties on the CCVA would
15 have direct and negative consequences to NextBridge and customers. Accordingly, their positions
16 should be rejected, and NextBridge's CCVA should be approved as proposed.
17
18 Similarly, the submissions of Staff and HONI related to the tracking of post in-service
19 environmental compliance revenue requirements in the CCVA are misplaced. The environmental
20 compliance costs that are currently unknown are directly related to the construction of the East-
21 West Tie line and agency approvals of the construction of the line, and, therefore, are appropriately
22 accounted for as capital costs under US GAAP.[137] There is no evidence to the contrary, only
23 conjecture by Staff and HONI. Also, if Staff's position was adopted to convert the environmental
24 compliance costs to OM&A, which it should not, NextBridge demonstrated that such a conversion
25 would result in higher costs to customers.[138]
26 **Table 7-1: Post Construction Environmental Compliance as OM&A**

[135] Hearing Transcript Vol. 3, pp. 145-146.
[136] Exhibit I Staff 71.
[137] Exhibit H-1-1; Exhibit I Staff 74.
[138] Exhibit H-1-1.

	Dollars					
	In-service date ("ISD") + 1 Year	**ISD + 2 Years**	**ISD + 3 Years**	**ISD + 4 Years**	**ISD + 5 Years**	**Total**
O&MA if in Revenue Requirement	Estimate included in construction costs	$972,000	$972,000	$972,000	$972,000	**$3,888,000**
Variance Account (as incurred)	Estimate included in construction costs	$972,000	$198,000	$106,000	$143,000	**$1,419,000**
After five years post ISD, the costs are expected to be less than $10,000 annually and are not included in this example, which is for illustrative purposes.						

1
2 Furthermore, as the evidence submitted by NextBridge's shows, the activities in years 2-10 after
3 the in-service date associated with the environmental compliance directly relate to the construction
4 of the East-West Tie line, and not operation and maintenance.[139] For example these activities
5 include, the implementation of a caribou transfer strategy and the associated monitoring of
6 predators and ice thickness on Lake Superior which are part of the Overall Benefits Permit
7 NextBridge was required to obtain to construct the line; the monitoring of bat hibernacula, habitat
8 and rock pile installations which were also part of species at risk permits needed to construct the
9 line; monitoring of fish habitats, flow rates, wildlife mortality which were requirements of the
10 Amended Environmental Assessment directly related to the construction of the East-West Tie line,
11 and, therefore, are all capital related activities, not OM&A.[140] Accordingly, based on the evidence
12 submitted by NextBridge, its proposal to include the post in-service construction-related
13 environmental compliance costs in the CCVA should be adopted as proposed.
14
15 **DRVA**
16
17 NextBridge proposes the establishment of the DRVA to record the revenue requirement
18 differential from the in-service date up until the point where the actual cost of debt is reflected in

[139] Exhibit C-2-4; also see Transcript Vol. 2. pp 35-36, 65.

[140] For the list of these post-construction environmental compliance activities, see Exhibit C-2-4.

1 NextBridge's revenue requirement and included in the UTR.[141] CCC supports NextBridge's
2 proposed DRVA,[142] while Staff requests clarification of whether the DRVA applies only to long-
3 term debt or to both long- and short-term debt, and whether the DRVA will be a one-time update.
4 In addition, Energy Probe requests that NextBridge file a financing plan related to its planned debt
5 financing no later than the fourth quarter of 2021.[143]
6
7 As for Energy Probe's request that NextBridge submit a financing plan no later than the fourth
8 quarter of 2021, the request should be rejected, because (1) submission of a financing plan prior
9 to seeking disposition of the DRVA serves no purpose as NextBridge will not be seeking approval
10 of the plan; and (2) since NextBridge has the burden to show the prudence of its debt financing
11 when it seeks disposition of the DRVA, NextBridge will at that time provide the relevant
12 information related to the debt financing plan.[144] With respect to Staff's clarifications,
13 NextBridge's Application included a draft accounting order which plainly sets forth that the
14 disposition of the DRVA will be a one-time update to the actual cost of long- and short-term
15 debt.[145] Therefore, given the plain language included in the draft accounting order, no additional
16 action is needed to clarify the items identified by Staff, and the DRVA should be approved as
17 proposed by NextBridge.
18
19 **RDVA**
20
21 NextBridge proposes the RDVA to record the difference between revenue earned by NextBridge
22 as part of its share of the 2022 UTR revenue based on the forecasted in-service date of March 31,
23 2022 compared to the revenue requirement that would have been calculated had rates been
24 established based on the actual achieved in-service date.[146] No party took issue with NextBridge's
25 proposed RDVA; however, as explained under Issue No. 1, *supra*, Staff proposes that the Board
26 conduct an interim UTR update and not approve NextBridge's RDVA, which NextBridge
27 addresses Staff's proposal under Issue No. 1.

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[141] Exhibit H-1-1; Exhibit H-1-1, Attachment 4 (DRVA draft accounting order).
[142] CCC, p. 9.
[143] Energy Probe, p. 29.
[144] Exhibit I Energy Probe 30(c).
[145] See Exhibits G-2-3 and G-2-3; Exhibit H-1-1, Attachment 4.
[146] Exhibit H-1-1; Exhibit H-1-1, Attachment 2 (RDVA draft accounting order).

1
2 **PILsVA**
3
4 NextBridge proposed a PILsVA that would record (1) any revenue requirement impact of
5 legislative or regulatory changes to tax rates or rules that are not reflected in the revenue
6 requirement used to establish 2022 UTRs; (2) differences that result from a change in, or a
7 disclosure of, a new assessment or administrative policy that is published in the public tax
8 administration or interpretation bulletins by relevant federal or provincial tax authorities; and (3)
9 tax impacts resulting from changes in tax-exemptions status of partners of NextBridge.[147] Staff
10 does not support the use of the PILsVA for changes in the tax-exempt status of the partners,
11 because it is beyond the scope of Account 1592, it will be caused by a partner's own actions, and
12 any tax impact is below the materiality threshold of $278,500.[148] Energy Probe and SEC also seek
13 to impose a 50/50 sharing of tax balances between customers and shareholders, with SEC citing
14 to the filing requirements for distribution rate applications.[149]
15
16 With respect to inclusion of a partner's change in tax status in this account, NextBridge submits
17 that the assertions of Staff and certain parties are purely speculative assumptions that the tax status
18 change is in the control of its partners and that such a change will not rise to the level of materiality.
19 In this regard, there could be a change in tax status of a partner that is also connected to other tax
20 changes through new legislation or administrative policy that in combination result in NextBridge
21 exceeding the materiality threshold. In this instance, NextBridge should be allowed to come
22 forward and make an application for the disposition of the account balance, subject to Board
23 approval. Furthermore, with regard to SEC's and Energy Probe's notation of Board's general
24 policy regarding the sharing of PILsVA balances due to regulatory or legislated changes 50/50
25 with customers and shareholders, NextBridge similarly submits that the Board need not opine on
26 that policy in this proceeding as NextBridge has not brought forth a request to dispose of any
27 balance, and, therefore, there is no request on which to apply the policy. According, for the above

[147] Exhibit H-1-1, Attachment 1.
[148] Staff, p. 52-53. Also, see, Energy Probe, p. 32; HONI, p. 39
[149] Energy Probe, p. 32; SEC, p. 36.

reasons and the evidence submitted by NextBridge in this proceeding,[150] NextBridge PILsVA should be approved as proposed.

Z-Factor

Consistent with the Board's policy set forth in the Transmitter's Chapter 2, Section 2.8.12, NextBridge proposes to use the Z-Factor during the IR term.[151] NextBridge proposes to utilize the materiality threshold for its Z-Factor consistent with the threshold set forth in Chapter 2, Section 2.1.1 which would be 0.5% of the annual transmission revenue requirement. For NextBridge, this equates to $278,500.[152] No party nor Staff questions NextBridge's proposal to use, as applicable, a Z-Factor account during the IR term. Energy Probe, however, asserts that a Z-factor account is only appropriate if each individual event satisfies the Z-factor threshold, and the Board should so clarify that rule in its decision in this proceeding.[153] HONI also asserts that any Z-Factor recovery request by NextBridge must make a clear demonstration that the costs associated with the event were not possible of being planned or budgeted.[154] NextBridge submits that the Board's policy related to requests and eligibility for Z-Factor cost recovery claims is well established as set forth in Transmitter's Chapter 2, Section 2.8.12, and, therefore, there is no need for additional elaboration. Further, the requests of Energy Probe and HONI are not ripe as NextBridge is not seeking Z-Factor treatment of any costs in this proceeding, and, therefore, the requests of Energy Probe and HONI for the Board to make a pronouncement in this proceeding regarding NextBridge's ability in the future to seek Z-Factor treatment of costs are premature, not warranted or appropriate. Accordingly, the requests of Energy Probe and HONI should be rejected.

8. COST ALLOCATION

- **Is the proposed cost allocation appropriate?**

---

[150] Exhibit H-1-1; Exhibit H-1-1, Attachment 1 (PILsVA draft accounting order).
[151] Exhibit B-1-4; Exhibit F-16-1; Exhibit H-1-1.
[152] Exhibit I Energy Probe 28.
[153] Energy Probe, p. 33.
[154] HONI, p. 39.

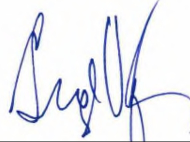
1 No party nor Staff take issue with NextBridge's proposed cost allocation, and, therefore based on
2 the evidence submitted by NextBridge, the Board should find NextBridge's proposed cost
3 allocation is appropriate.[155]

4

5 Based on the foregoing, NextBridge submits that the Application should be approved as proposed.

6 All of which is respectfully submitted this 11th day of May, 2021.

7



8
9 George Vegh
10 McCarthy Tétrault LLP
11 Counsel to Upper Canada Transmission, Inc.,
12 dba NextBridge Infrastructure, LP

[155] Exhibit I-1-1.