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

BY EMAIL

November 11, 2021

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

Dear Ms. Long:

Re: Ontario Energy Board (OEB) Staff Submission
Energy+ Inc.
Application for 2022 Rates
OEB File Number: EB-2021-0018

Please find attached OEB staff's submission in the above referenced proceeding, pursuant to Procedural Order No. 1.

Yours truly,

Marc Abramovitz

Digitally signed by Marc Abramovitz
DN: cn=Marc Abramovitz, o=Ontario Energy Board, ou=Incentive Rate-setting and Regulatory Accounting, email=marc.abramovitz@oeb.ca, c=CA
Date: 2021.11.11 16:37:57 -05'00'

Marc Abramovitz
Incentive Rate-setting & Regulatory Accounting

Encl.

cc: All parties in EB-2021-0018

ONTARIO ENERGY BOARD

OEB Staff Submission

Energy+ Inc.

Application for 2022 Rates

EB-2021-0018

November 11, 2021

Introduction

Energy+ Inc. (Energy+) filed an incentive rate-setting mechanism (IRM) application with the Ontario Energy Board (OEB) on August 16, 2021 under section 78 of the *Ontario Energy Board Act*, *1998* (OEB Act) seeking approval for changes to its electricity distribution rates to be effective January 1, 2022.

Energy+ serves approximately 67,000 mostly residential and commercial electricity customers in the City of Cambridge, the Township of North Dumfries, and certain areas within the County of Brant and City of Brantford. The company is seeking the OEB's approval for the rates it charges to distribute electricity to its customers, as is required of licenced and rate-regulated distributors in Ontario.

The purpose of this document is to provide the OEB with the submissions of OEB staff based on its review of the evidence submitted by Energy+.

Consistent with the Chapter 3 Filing Requirements, Energy+ applied the Price Cap IR adjustment factor to adjust the monthly service charge and distribution volumetric rate during the incentive rate-setting years. OEB staff has no concerns with Energy+'s proposed price cap adjustment, although OEB staff notes that the 2021 inflation parameters have been applied as a placeholder, pending the OEB's issuance of the 2022 parameters.

On August 6, 2021, the OEB issued a notice on its own motion to initiate a proceeding to consider the inflation factor to be used to set rates for electricity transmitters and electricity and natural gas distributors for the year 2022.[1] If the OEB's decision on the 2022 inflation parameters is issued following the close of record for this proceeding, OEB staff intends to update Energy+'s 2022 IRM Model to reflect the OEB-approved 2022 inflation factor, and resulting price cap adjustment, pursuant to the process that the OEB may lay out for implementation once available.

Energy+ has also requested an update to its Retail Transmission Service Rates (RTSRs) to recover the wholesale transmission rates charged by the Independent Electricity System Operator (IESO) and its host distributors, Brantford Power and Hydro One Networks Inc. OEB staff has no concerns with Energy+'s requested adjustments to its RTSRs.

OEB staff makes detailed submissions on the following:

- Group 1 Deferral and Variance Accounts (DVAs)
- Advanced Capital Module (ACM)

[1] EB-2021-0212

OEB Staff Submission

Group 1 Deferral and Variance Accounts

Energy+ requested disposition of its December 31, 2020 Group 1 DVA balances in the amount of $3,286,290 on a final basis and is requesting disposition over a 12-month period. The components of this balance are shown in Table 1. The Group 1 account balances exceed the OEB's $0.001/kWh threshold for disposition. The OEB most recently approved disposition of Energy+'s Group 1 account balances on a final basis, as of December 31, 2019, as part of its 2021 rates proceeding.

Table 1: Group 1 DVA Balances

Account Name	Account Number	Principal Balance ($) A	Interest Balance ($) B	Total Claim ($) C=A+B
Low Voltage Variance Account	1550	(26,648)	(1,494)	(28,143)
Smart Metering Entity Charge Variance Account	1551	(7,565)	(146)	(7,711)
RSVA - Wholesale Market Service Charge	1580	(762,727)	(7,292)	(770,019)
Variance WMS – Sub-account CBR Class B	1580	(44,817)	(895)	(45,713)
RSVA - Retail Transmission Network Charge	1584	1,034,262	7,466	1,041,728
RSVA - Retail Transmission Connection Charge	1586	775,575	8,907	784,482
RSVA - Power	1588	1,548,678	9,158	1,557,836
RSVA - Global Adjustment	1589	734,600	19,229	753,830
Totals for Group 1 accounts		3,251,357	34,933	3,286,290

Energy+'s disposition request includes an Account 1588 debit balance of $1,557,836. In response to OEB staff interrogatories, with respect to why the claim for this account is so large, Energy+ explained that this is due to the following drivers:[2]

[2] 1-Staff-2; 1-Staff-3.

1. Energy+'s approved loss factors did not allow for full recovery of its 2020 energy purchases. Since revenue was not recovered on the incremental losses, the cost of these losses is directly attributable to the Account 1588 balance.

2. Energy+ has generated variances between unbilled estimates and actuals in its energy revenue which impacts the balance in Account 1588. Energy+ utilizes estimated consumption and rates when preparing its unbilled computations, and a true-up is completed in subsequent months. Energy+ does not have the required data available during year-end to complete the true-up within the same fiscal year, with any unbilled to actual differences recognized in the following year's financial records.

Submission

OEB staff has reviewed the 2020 DVA balances and the supporting evidence substantiating these balances. OEB staff would be supportive of Energy+'s request to dispose of its December 31, 2020 Group 1 DVA balances on a final basis, provided one outstanding matter is addressed.

OEB staff notes that, while Energy+ has explained that part of the variance in Account 1588 is attributable to differences between year-end estimated and actual revenues recorded in 2020, it has not included those impacts as principal adjustments in the continuity schedule. If these differences are drivers for a debit balance, then invariably, the principal adjustment to account for this impact would be a credit amount. Recording a credit adjustment would eliminate the year-end unbilled revenue differential, and it would more accurately reflect the true variance, as of the end of 2020, that should be disposed to ratepayers in this proceeding. Furthermore, to not record this impact as a principal adjustment would be incompliant with the OEB's accounting guidance.[3]

OEB staff submits that, as part of Energy+'s reply submission, it should calculate this impact and update its evidence to include this adjustment or in the alternative explain why it is not appropriate for Energy+ to do this. In OEB staff's view, this amount should be recorded as a 2020 principal adjustment in Tab 3 of the IRM Rate Generator model and reflected in the Global Adjustment Analysis Workform. While OEB staff has focused its analysis above on the impact to Account 1588, given its unusual magnitude, there would presumably be similar unbilled to actual revenue variances in Account 1589 for the 2020 year-end, pertaining to Global Adjustment revenue. Accordingly, any similar

[3] Accounting Procedures Handbook Update – Accounting Guidance Related to Commodity Pass-through Accounts 1588 and 1589, February 21, 2019

impacts associated with Account 1589 should be recorded as well (in Tab 3 of the IRM Rate Generator Model and in the Global Adjustment Analysis Workform).

OEB staff further submits that it would be helpful to the OEB if Energy+, in advance of its next rates proceeding, investigates why its approved loss factors differ materially from its actual system losses (particularly given that Energy+ recently adjusted its loss factors in 2019). Any insights from this review should be disclosed in Energy+'s subsequent rate application.

Depending on the outcome of that review, OEB staff would be open to an adjustment to the loss factors in an IRM application, especially if Energy+'s next rebasing application will be filed well after 2024 rates, depending on the outcome of the recently filed merger application with Brantford Power Inc.[4] In this instance, OEB staff expects that the OEB will hold a hearing on the IRM application, similar to the hearing being held for the current application.[5]

Advanced Capital Module (ACM)

Background

In Energy+'s 2019 cost of service proceeding (2019 Rate Application), Energy+ requested a $8.1 million ACM related to renovating and converting an existing heritage building in downtown Cambridge (Southworks) into an administrative office building. In its Decision and Order (2019 Decision), the OEB found that the ACM for the Southworks facility met the OEB's criteria of need and materiality.[6] However, the OEB found that Energy+ did not provide sufficient evidence in support of the reasonableness of the $8.1 million cost estimate for the Southworks facility and approved $6.5 million for the ACM.[7] The OEB also noted that Energy+ would have the opportunity to address any deviations from this amount in its subsequent Price Cap IR application for the year in which the project comes into service.[8]

In this application, Energy+ submitted that the final cost forecast for the Southworks facility is $8.15 million, which is $1.65 million or 25.4% higher than the $6.5 million

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[4] EB-2021-0280
[5] The OEB has previously approved an adjustment to loss factors in an IRM application by Sioux Lookout Hydro Inc., Decision and Rate Order, March 28, 2019, Revised – May 3, 2019, EB-2018-0066
[6] EB-2014-0219, *Report of the Board - New Policy Options for the Funding of Capital Investments: The Advanced Capital Module,* September 18, 2014 (ACM Report) and EB-2014-0219, *Report of the Board on* New Policy Options for the Funding of Capital Investments: Supplemental Report, January 22, 2016 (ACM Supplemental Report).
[7] EB-2018-0028, pages 13-14
[8] Ibid, page 14

approved by the OEB in the 2019 Decision. The increase is comprised of $413K due to COVID-19 impacts, $1.81 million in other unforeseen costs, and an offsetting $570K decrease in costs through value engineering. Energy+ anticipates occupying the Southworks facility in January 2022. A summary of the incremental costs set out in the application is reproduced in the table below:[9]

Table 2

Item	Description	Increase
Inflationary Impacts	Higher costs due to pricing and demand in the local construction industry.	$1,118,000
COVID-19 Impacts	Increase in material costs due to lumber and structural steel shortages. Additional costs for sanitary measures on site and increased personnel on site for COVID-19 screening.	$413,000
Firewall Construction	Costs to complete the firewall construction were not included in the 2019 Cost of Service estimate.	$269,000
Legal and Real Estate Fees	Legal and real estate fees related to closing the transaction of acquiring the Southworks facility were not included in the 2019 Cost of Service estimate.	$123,000
Conduit replacement	Existing conduits required replacement for the roof, clearstory wood siding, masonry repair and windowsills.	$85,000
Waterproofing	West wall required waterproofing due to high water table impacting ground water conditions at the site	$40,000
Design Consistency	Developer related design requiring a consistent look and feel to the adjacent buildings impacted roof, window and exterior hardscaping costs.	$34,000
Various Other		$141,000
Total		**$2,223,000**

Inflationary Impact

Energy+ explained that the main source of cost increases was unforeseen inflationary impacts in the local construction industry, which amounted to $1.1 million. This amount is based on the difference between the benchmark (cost/sq ft) used in the 2019 Decision and the benchmark Energy+ proposes in this application multiplied by the square footage of the facility.[10]

As set out above, in the 2019 Decision, the OEB found that there was insufficient

[9] Managers' Summary, Page 26, Table 16
[10] EB-2021-0018 Application – Appendix F2 (Benchmark Inflation), p. 120

evidence to approve the $8.1 million proposed cost of the Southworks facility as prudent. Instead, the OEB approved $6.5 million for the ACM, based on benchmarking costs to other utilities' administrative-only facilities as comparators and adjusted for the OEB's IRM inflation index.[11] With respect to the inflationary factor to be applied, the 2019 Decision states:

> *To address the concern that the $370 per square foot cost estimate is significantly higher than other comparators,* ***Energy+ stated that inflationary cost increases and utilization (square foot per FTE) should also be factored in when using the cost per square foot benchmark. Energy+ reviewed the OEB published inflation factors for the period of 2008 to 2017*** *and supported OEB staff's administrative building comparison of Southworks with the PowerStream and Enersource projects.*[12]
> *(emphasis added)*

Energy+ filed a motion to review and vary the 2019 Decision and argued that the OEB applied the IRM inflation index to the comparators when it would have been more appropriate to apply an inflation index specific to the construction industry.[13] In support of its motion, Energy+ filed evidence from CBRE Limited (CBRE) to provide an opinion on the inflation rate that the 2019 Decision should have applied. In its decision on the motion (Motion Decision), the OEB noted that, in the 2019 Rate Application, Energy+ did not suggest that the IRM inflationary factors were inappropriate or propose a different inflationary measure and that doing so on the motion to review was an attempt to re-argue the 2019 Rate Application.[14] The Motion Decision states:

> *Neither of the benchmark costs for the facilities proposed by Energy+ or OEB staff were adjusted for inflation in the submissions in the Rate Application. While both Energy+ and OEB staff observed that inflation should be included in the cost comparisons, the only specific inflationary measures referenced in the Rate Application were the OEB approved IRM factors mentioned in Energy+'s reply submission.* ***Although Energy+ referred to inflation in the construction sector, it did not suggest that the IRM inflationary factors are inappropriate, nor did it propose a different inflationary measure.***
>
> *As noted by Energy+ in its AIC, a motion to review is not an opportunity for the party to reargue its case. In its reply argument in the Rate Application, Energy+ clearly indicated that inflation should be included in the benchmark used.* ***To***

[11] EB-2018-0028, page 13
[12] EB-2018-0028, page 12
[13] EB-2019-0180, Notice of Motion, July 2, 2019, Page 5
[14] EB-2019-0180 Decision and Order, December 5, 2019 (Motion Decision), page 9:

> ***argue now that the OEB IRM inflation factors were the wrong measure is an attempt to re-argue the Rate Application."***[15] *(emphasis added)*

When asked how Energy+'s proposal in this application is not an attempt to re-argue the inflation index applied in the 2019 Rate Application, Energy+ stated that it has included new expert evidence in support of an appropriate inflationary increase that was not available to the panel that decided the 2019 Rate Application.[16]

Submission

OEB staff submits that the $1.1 million increase for the inflationary factor would be more accurately presented when reduced by the achieved savings of $570K, such that the net increase is $530K.[17]

In any event, OEB staff does not agree with Energy+'s proposal to include the proposed inflationary impacts in its claim for increased ACM funding. As the Motion Decision noted, Energy+ could have filed such evidence in the 2019 Rate Application but did not do so. The Motion Decision states:

> When the OEB made provision for Energy+ to file additional evidence, the OEB expected that the evidence would address the issues raised in the Motion. The CBRE Evidence did not address the Motion issues. **The evidence that was provided by Mr. Kelsey could have been provided in the Rate Application if Energy+ had sought input from a cost consultant. Once again, a motion to review is not an opportunity for the party to reargue its case.** The opinion of Mr. Kelsey has not convinced the OEB that the threshold test has been satisfied.[18] *(emphasis added)*

OEB staff submits that Energy+ should not be eligible to recover the $530K through the ACM as this matter has already been decided in the 2019 Decision and Motion Decision, nor should this amount be included in Energy+'s rate base at its next rebasing application.

As the 2019 Decision noted, if Energy+ experienced cost increases after receiving approval for the ACM, then it would have an opportunity to explain the drivers for the increases and to support their prudence, in this IRM application. However, Energy+ has not demonstrated that the inflationary factor is a new cost or a new driver and the OEB has already opined on this matter on two separate occasions.

[15] ibid
[16] IR Response to 1-Staff-8
[17] Application, Manager's Summary, page 23
[18] Motion Decision, page 10

Furthermore, OEB staff notes that, in the current application, Energy+ has filed the same evidence in support of its proposed inflationary increase as had been filed on the motion to review the 2019 Decision.[19] Energy+ believes that this is "new evidence" in which the panel that decided the original 2019 Rate Application did not have before it.[20]

However, OEB staff does not agree that there is "new evidence" in this proceeding that was not available in the 2019 Rate Application. Energy+ referenced only the OEB inflationary factors and did not provide evidence or submissions in support of a different inflationary factor. If the evidence was not before the panel in the 2019 Rate Application, it is because Energy+ chose to not file such evidence and not because it was not available. As the Motion Decision noted, the evidence filed in the motion to review could have been provided in the Rate Application. Instead, Energy+'s submission in the 2019 Rate Application referenced only the OEB inflationary factors and did not provide evidence or submissions in support of a different inflationary factor.

COVID-19 Costs

Energy+ stated that due to the COVID-19 pandemic, it incurred higher material costs and additional health and safety costs related to the Southworks facility. Considering the *Report of the OEB regarding Regulatory Treatment of Impacts Arising from the COVID-19 Emergency* (COVID Report),[21] OEB staff inquired through interrogatories as to why Energy+ had proposed to include the incremental amount of $413K as part of the updated ACM total expenditure, rather than in the COVID-19 Account 1509 sub-account.[22] In its response, Energy+ referred to the following excerpt from the COVID Report:

> The OEB agrees with OEB staff, as well as certain stakeholders, that this Account was not established with the intent to capture industry-wide variances or all pandemic-related impacts. Accordingly, utilities that do not intend to submit claims are not required to record amounts in the Account.[23]

Energy+ further explained that it did not record any amounts in the COVID-19 DVA as it did not intend to submit a claim through the COVID-19 DVA and that requesting the $413K in this ACM application facilitates regulatory efficiency.

[19] EB-2019-0180 Energy+ Expert Evidence, September 13, 2019, https://www.rds.oeb.ca/CMWebDrawer/Record/652521/File/document (and EB-2021-0018 Application – Appendix G, page 122, https://www.rds.oeb.ca/CMWebDrawer/Record/722318/File/document)
[20] EB-2021-0018 Response to Interrogatories (1-Staff-8)
[21] EB-2020-0133, June 17, 2021
[22] 1-Staff-9
[23] COVID Report, page 27

<u>Submission</u>

OEB staff does not agree with Energy+'s proposal to recover the incremental costs associated with the COVID-19 pandemic through the ACM mechanism. The COVID-19 consultation was initiated by the OEB so that it could address, on an industry-wide basis, under what circumstances utilities would qualify for incremental relief associated with the COVID-19 pandemic.

In OEB staff's view, Energy+'s interpretation and reliance on the excerpt above is taken out of context. The excerpt is from a section of the COVID Report that addresses the issue of whether net gains associated with the pandemic should be automatically required to be recorded in the DVA and brought forth for disposition. The complete paragraph states:

> *The OEB will not require utilities to return any net gains, in the event that savings exceed costs.* The OEB agrees with OEB staff, as well as certain stakeholders, that this Account was not established with the intent to capture industry-wide variances for all pandemic-related impacts. Accordingly, utilities that do not intend to submit claims are not required to record amounts in the Account.[24] *(emphasis added)*

In this section of the COVID Report, the OEB simply affirmed that utilities are not required to return net gains to customers and does not indicate that utilities are invited to submit requests via alternate mechanisms for recovery of COVID-related impacts.

In OEB staff's view, capital-related incremental costs are not excluded from the general rules surrounding the COVID DVA. In fact, a dedicated sub-account for the capital-related revenue requirement was established specific for capital-related impacts.[25] OEB staff submits that the nature of the incremental COVID-19 costs at issue in this application would appropriately be captured in that sub-account. OEB staff further submits that if the ACM/ICM module is an available option to utilities to claim incremental capital costs associated with the COVID-19 pandemic, then the sub-account established in Account 1509 would effectively be redundant and serve no purpose.

OEB staff agrees with Energy+ that if it does not intend to claim incremental costs associated with the COVID-19 pandemic, it should not be required to track these costs in Account 1509. If Energy+ does ultimately seek to recover these costs in accordance with the rules set out in the COVID Report, OEB staff believes that Energy+ would not appear to qualify for recovery. The COVID Report established a means test whereby a utility must earn less than 300 basis points (bps) below its OEB-approved return on

[24] Ibid
[25] COVID Report, page 42

equity (ROE) in order to recover COVID-related costs. Energy+'s OEB-approved ROE is 8.98%. It did not pass the means test in 2020 and is not expecting to do so in 2021. Energy+ achieved an ROE of 7.89% in 2020 and forecasts an ROE of 8.2% in 2021, each above 5.98% (which would represent a decrease of 300 bps from its approved ROE of 8.98%).[26]

Unforeseen Costs

Energy+ incurred other unforeseen costs such as firewall construction, legal and real estate fees, conduit replacement, waterproofing, and design consistency, which totals $692K. With respect to the firewall construction costs, which was $269K, Energy+ stated these were not included in the original estimate and it was a condition included in the Purchase and Sale Agreement. Energy+ stated that it did not utilize a tendering process for the construction of the firewall because it was constructed by HIP Developments, as per the Purchase and Sale Agreement, and Energy+ was responsible for 50% of the costs.[27]

Submission

OEB staff submits that the $692K in other unforeseen costs is reasonable to include in the updated ACM total claim. While the cost for the firewall construction ($269K) was not included in the original estimate, the need and cost responsibility of the firewall was a condition of sale. OEB staff agrees that the firewall was required and that the cost Energy+ incurred as part of the Purchase and Sale Agreement is reasonable.

The remaining unforeseen costs total $423K (set out in Table 2 above) and represent 6.5% of the OEB approved envelope of $6.5M. In OEB staff's view, these costs can reasonably be expected to be unforeseen, incremental to the $6.5M funding envelope previously approved, and prudently incurred.

ACM Parameters

Energy+ also updated its 2022 capital budget in the ACM model from $22.07 million to $23.50 million, which is a $1.43 million increase. OEB staff submits that this is reasonable as the cost estimate for the Southworks facility has also increased by $1.65 million. OEB staff also notes that the maximum eligible incremental capital changed from $13.3 million, as approved in Energy+'s 2019 CoS application, to $12.9 million in the current application. OEB staff notes that any amount approved by the OEB between $6.5 and $8.1 million for this ACM would be fully eligible for recovery.

[26] Response to VECC-3
[27] Response to Staff-7(c)

ACM Bill Impacts

The following table summarizes OEB staff's estimated bill impacts associated with the ACM.

	As Per 2019 OEB Decision	Current Energy+ Proposal	Current OEB Staff Proposal
ACM Amount	**$6.50 M**	**$8.15 M**	**$7.19 M**
Residential ACM Rate Rider	**$0.47**	**$0.59**	**$0.52**
Total Bill Impact (%)	0.4%	0.5%	0.4%
General Service < 50 kW ACM Rate Rider	**$0.93**	**$1.16**	**$1.03**
Total Bill Impact (%)	0.3%	0.4%	0.3%

~All of which is respectfully submitted~