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

Ontario

BY EMAIL

November 30, 2021

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

Dear Ms. Long:

Re: Canadian Niagara Power Inc. (Canadian Niagara Power)
Application for 2022 Electricity Distribution Rates
Ontario Energy Board File Number: EB-2021-0011

In accordance with Procedural Order No. 2, please find attached OEB staff's submission on the settlement proposal in the above noted proceeding. Canadian Niagara Power and all intervenors have been copied on this filing.

Yours truly,

Original Signed By

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

Attach.

ONTARIO ENERGY BOARD

STAFF SUBMISSION ON SETTLEMENT PROPOSAL

2022 ELECTRICITY DISTRIBUTION RATES

Canadian Niagara Power Inc.

EB-2021-0011

November 30, 2021

INTRODUCTION

Canadian Niagara Power Inc. (CNPI) filed a cost of service application with the Ontario Energy Board (OEB) on June 30, 2021 under section 78 of the *Ontario Energy Board Act*, *1998,* seeking approval for changes to the rates that CNPI charges for electricity distribution, to be effective January 1, 2022.

The OEB issued an approved issues list for this proceeding on August 27, 2021. A settlement conference was held from October 12 to 14, 2021 and CNPI filed a settlement proposal setting out an agreement among all the parties to the proceeding on November 22, 2021. The parties to the settlement proposal were CNPI and the approved intervenors in the proceeding: Consumers Council of Canada, IMT Partnership – PC Forge, School Energy Coalition, and Vulnerable Energy Consumers Coalition (the parties). The settlement proposal represents a full settlement of all issues in CNPI's application.

For a typical residential customer with a monthly consumption of 750 kWh, the total bill impact under the filed settlement proposal is an increase of $0.14 per month before taxes or 0.1%.

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

Settlement Proposal

OEB staff has reviewed the settlement proposal in the context of the objectives of the *Renewed Regulatory Framework*[1], the *Handbook for Utility Rate Applications*[2], applicable OEB policies, relevant OEB decisions, and the OEB's statutory obligations. OEB staff submits that the settlement proposal reflects a reasonable evaluation of the distributor's planned outcomes in this proceeding, appropriate consideration of the relevant issues, and ensures that there are sufficient resources to allow CNPI to achieve its identified outcomes in the five years of the plan from 2022 to 2026.

[1] Renewed Regulatory Framework for Electricity Distributors: A Performance-Based Approach, October 18, 2012

[2] Handbook for Utility Rate Applications, October 13, 2016

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

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

- Issue 1.1 - Capital
- Issue 1.2 - Operating, Maintenance, and Administration
- Issue 2.0 - Revenue Requirement
- Issue 3.0 - Load Forecast, Cost Allocation, and Rate Design
- Issue 4.0 - Accounting
- Issue 5.1 - Are the Specific Service Charges, Retail Service Charges, and Pole Attachment Charge appropriate?
- Issue 5.2 – Is the proposed effective date for 2022 rates appropriate?
- Issue 5.3 - Is CNPI's proposal to maintain the existing interim status for the Standby charge appropriate?

Issue 1.1 Capital

CNPI proposed a total net capital expenditure of $13.44 million for the 2022 test year in its original application. This represents an increase of $3.69 million (37.8%) over the 2017 OEB-approved. The largest areas of capital investments are in system renewal and system service and relate to voltage conversion, line rebuilds, and station work. CNPI also exceeded its planned capital spending by 26% in non-system access categories between 2017 to 2021.

For the purposes of the settlement of all issues in this proceeding, the parties have agreed to shift $1.8 million in capital in-service additions from the test year to spending in 2023 to 2026 and to level the annual spending over the 2022 to 2026 period. CNPI also agreed to remove an additional $42k of other post-employment benefits (OPEBs) related to actuarial losses allocated to rate base from the 2022 revenue requirement.[3] Instead, actuarial gains and losses will be tracked in deferral accounts, which are further explained below under Issue 4.0 of this submission.

[3] As per 4-Staff-97, the 2022 test year OPEB capital amounts are $41,950 and the pension capital amounts are nil.

Between 2017 to 2021, CNPI exceeded its planned capital spending by 26% in non-system access categories. The parties believed that CNPI could have controlled its overall capital spending to more closely follow the previously reviewed Distribution System Plan (DSP) and to mitigate the rate impact of the overspending. To mitigate the impact of CNPI's overspending between 2017 to 2021, CNPI agreed to update the capital forecast and shift $2.5 million of in-service additions from 2021 to 2022. For rate-making purposes this effectively reduces the average rate base by $1.25 million and results in a net reduction to the 2022 revenue requirement.

OEB staff submits that the shift of $2.5 million from 2021 to 2022, the shift of $1.8 million in capital expenditures to future years, and to level the annual spending is reasonable. From 2018 to 2021, CNPI accelerated its voltage conversions due to reliability and contingency backup concerns, which led to higher system renewal spending than planned. While the OEB does not approve a DSP, a utility is expected to explain any deviations in how they deployed their capital expenditure plan to inform their subsequent five year cycle. Shifting the capital expenditures to future years and leveling the annual spending is a reasonable way to level the historical overspending, for rate making purposes, and to better pace future capital spending to address system needs.

Parties further agreed that as part of its next cost of service application, "CNPI will review its Short-Term Incentive Program to ensure that incentives relating to capital spending are based on objective measures and do not incentivize overspending with respect to the company's planned capital budgets."[4] OEB staff submits that this is reasonable since CNPI saw 26% higher than planned capital spending in its historical years and this will ensure management is prudently pacing and reprioritizing work on a on-going basis.

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

CNPI proposed a total OM&A spending of $9.96 million for the 2022 test year in its original application. This amount includes an accounting change by recording the revenue from shared IT assets as an OM&A offset instead of recording the revenue as other revenue. This represents an increase of $1.07 million (10.8%) over the 2017 OEB-approved OM&A or an average yearly increase of 2.16% <u>before</u> IT offsets, or an increase of $42k (0.4%) over the 2017 OEB-approved OM&A or an average yearly increase 0.1% <u>after</u> IT offsets. CNPI attributed this change to inflationary increases, FTE fluctuations, and the shared IT offset.

[4] EB-2021-0011 Settlement Proposal

The parties agreed to an OM&A reduction of $361k to CNPI's proposed OM&A, $300k is a general reduction to the overall OM&A and $61k is a result of the removal of OPEBs related to actuarial losses allocated to OM&A.[5] Actuarial gains and losses will instead be tracked in deferral accounts. The revised OM&A amount results in a decrease of 3.2% from the 2017 actual OM&A spending after IT offsets, or an average yearly decrease of 0.6%. CNPI is also forecasted to move to cohort 3 in 2022, which is an improvement from cohort 4 as per the *Empirical Research in Support of Incentive Rate-Setting: 2020 Benchmarking Update.*[6]

OEB staff submits that the reduction of $361k in OM&A is reasonable. By scaling CNPI's 2017 OEB-approved and historical 2017 to 2021 OM&A (including the IT offset) by inflation, customer growth, and stretch factor to 2022, it shows that on average the 2022 test year OM&A amount in the original application is $330k higher than the scaled amounts. A reduction of $361k is effectively maintaining status quo for CNPI. OEB staff also notes that CNPI is forecasted to move into cohort 3, which means they are within 10% of predicted costs.

Issue 2.0 Revenue Requirement

The parties have agreed to a service revenue requirement of $23.2 million and a base revenue requirement of $21.8 million. This reflects a reduction of $1.81 million in net in-service additions, $361k in OM&A, and shifting $2.5 million of in-service additions from the bridge year to the test year. This also reflects updates to the depreciation, cost of capital, working capital allowance, and payment in lieu of taxes. The table below shows the change in revenue requirement between CNPI's application and the settlement proposal. OEB staff has no concerns with the revenue requirement calculations.

[5] As per 4-Staff-97, the 2022 test year OPEB OM&A amounts are $60,661 and the pension OM&A amounts are nil.

[6] Report to the Ontario Energy Board – "Empirical Research in Support of Incentive Rate-Setting: 2020 Benchmarking Update", prepared by Pacific Economics Group LLC., August 2021

Table 1 – CNPI's Revenue Requirement

	Application June 30, 2021	Settlement Proposal Nov 22, 2021	Variance
OM&A Expenses	$9,958,029	$9,599,168	-$358,861
Amortization/Depreciation	$5,625,717	$5,577,375	-$48,342
Property Taxes	$105,100	$105,100	$0
Income Taxes (Grossed Up)	$430,483	$442,125	$11,642
Regulated Return on Rate Base			
Deemed Interest Expense	$2,951,625	$2,967,107	$15,482
Return on Deemed Equity	$4,388,005	$4,494,100	$106,095
Service Revenue Requirement	$23,458,959	$23,184,975	-$273,984
Revenue Offsets	$1,341,251	$1,341,251	$0
Base Revenue Requirement	$22,117,708	$21,843,724	-$273,984
Gross Revenue Deficiency/(Sufficiency)	$2,558,598	$1,460,325	-$1,098,273

PILS/Tax Expense - Accelerated Capital Cost Allowance

Bill C-97 introduced the Accelerated Investment Incentive program (AIIP), which provides for a first-year increase in capital cost allowance (CCA) deductions on eligible capital assets acquired after November 20, 2018. The AIIP is expected to be phased out starting in 2024, and fully phased out in 2028.

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

Account 1592

The parties agreed to CNPI's calculation of the CCA differences that are accumulated in Account 1592, Sub-account CCA Changes, from 2018 to 2021. The calculated 1592 sub-account credit balance of $1,509,053 represents the full revenue requirement impact of the application of accelerated CCA as at December 31, 2021, including interest forecasted to December 31, 2021. Details of the principal balance in Account 1592 as at December 31, 2021 is set out in “Table 19: Cumulative Effects on Account 1592” of the settlement proposal.[7] In its calculations, CNPI used the actual (or forecast, as applicable) capital additions in the respective period.[8]

The parties agreed that 100% of the revenue requirement impact is to be refunded to CNPI’s ratepayers. OEB staff agrees with this approach. OEB staff notes that a refund of 100% of the sub-account to ratepayers has previously been approved by the OEB in a prior proceeding[9] and accepted by the OEB in settlement proposals in various other proceedings.[10]

Smoothing Mechanism

The CCA Letter also indicated that utilities were to reflect any impacts arising from CCA rule changes in their cost-based applications for 2020 rates and beyond and that the OEB may consider a smoothing mechanism to address any timing differences that could lead to volatility in tax deductions over the rate-setting term. The *Chapter 2 Filing Requirements for Electricity Distributors* further state that the OEB will assess smoothing proposals on a case-by-case basis and if the OEB is satisfied with the smoothing proposals, the recording of impacts from these CCA changes in Account 1592 may not be required during the incentive rate-setting term.[11]

In the current application, CNPI proposed a five-year smoothing adjustment to CCA that is reflected in its PILs/Taxes provision to address the phasing out of AIIP. The parties agreed to a smoothing adjustment of $271k that is added to the 2022 test year net income before taxes. Details of the smoothing adjustment is set out in “Table 9:

---

[7] Settlement Proposal, November 22, 2021, page 34
[8] Note that for 2021, forecasted actual capital additions are used.
[9] Enbridge Gas Inc. Deferral and Variance Account Disposition and Earnings Sharing Mechanism Decision and Order, May 6, 2021, EB-2020-0134
[10] Hydro Ottawa Limited 2021 Custom IR Decision and Order, EB-2019-0261, November 19, 2020; Waterloo North Hydro Inc. 2021 Cost of Service Decision and Rate Order, EB-2020-0059, December 10, 2020; Brantford Power Inc. 2022 Cost of Service Decision and Order, EB-2021-0009, October 28, 2021
[11] Chapter 2 Filing Requirements for Electricity Distribution Rate Applications – 2021 Edition for 2022 Rate Applications, June 24, 2021, Page 38

Smoothing Adjustment on 2022 Test Year" of the settlement proposal, as well as Appendix F – DSP Smoothing Calculation.[12]

In OEB staff's view, the agreed-upon smoothing adjustment calculation is one of the appropriate methods to address the phase out of AIIP. In addition, OEB staff notes that another smoothing proposal has previously been accepted by the OEB in a settlement proposal in another proceeding.[13] OEB staff does not take issue with the smoothing adjustment calculation used by CNPI.

As also noted in section 4.0 of this document below, the parties agreed that Account 1592, sub-account CCA changes, will, from 2022 to CNPI's next rebasing application, only capture the impact of any further changes to the CCA rules, beyond those contemplated in this proceeding.[14] OEB staff agrees with this approach. In OEB staff's view, the intent of a smoothing adjustment is to address the change in CCA rules resulting from Bill C-97 upfront in the current application, instead of capturing the impact of those changes in rules as they occur during the IRM period. Therefore, the 1592 sub-account CCA changes would no longer be needed for the 2022 to 2026 period, unless there are further changes to CCA rules, beyond those contemplated in this proceeding.

Issue 3.0 Load Forecast, Cost Allocation, and Rate Design

Load Forecast

The parties agreed to four changes in Canadian Niagara Power's load and customer forecast:

1) The customer counts as of June 30, 2021 were used as a year average forecast for 2021. One year of growth plus the manual adjustments from CNPI's model filed with interrogatory responses were applied to arrive at the forecast for 2022.
2) The power purchased model was modified to address historic CDM through manual adjustments, and not through an explanatory variable in the regression model.
3) A formula correction to the street lighting and sentinel lighting rate classes
4) Allocation of wholesale energy use to rate classes is performed based on the five-year period of 2015-2019 instead of 2016-2020 from the initial application.

[12] Settlement Proposal, November 22, 2021, page 20; Appendix F – DSP Smoothing Calculation (page 47)
[13] Brantford Power Inc. 2022 Cost of Service Decision and Order, EB-2021-0009, October 28, 2021
[14] Settlement Proposal, November 22, 2021, page 20 & 34

In the context of the settlement proposal, OEB staff does not have any concerns with the proposed load forecast of 479 GWh, 701 MW and 36,820 customers and connections as shown in Table 11 of the settlement proposal. This reflects an increase of 20 GWh, 159 MW and 169 customers over the initial proposal. OEB staff submits that the agreed-upon load and customer connection forecasts are reasonable.

Cost Allocation

The parties agreed that CNPI's proposed cost allocation model is appropriate.

CNPI experienced difficulties updating its load profiles and resulting demand allocators for this proceeding. It relied on the load profiles prepared by Hydro One, scaled for consistency with the load forecast.[15] It has committed to make a proposal to update its load profiles at the time of its next rebasing. In doing so, it will consider the feasibility of any methodology detailed in filing requirements or used by other LDCs at that time.[16]

OEB staff has no concerns with the cost allocation agreed to by the parties. OEB staff strongly supports CNPI's commitment to propose demand allocators based on updated load profiles at the time of its next rebasing.

Loss Factor

The parties agree to a loss factor of 5.24% based on the average of the most recent three historic years. This reflects a decrease of 0.20% from the initial proposal, and a decrease of 0.06% from the current approved loss factor. OEB staff has no concerns with the proposed loss factor.

Rate Design

The parties agreed that in the Street Lighting rate class, the description of the charge determinant would be updated from "per connection" to "per device" to reflect how these charges are applied.

The parties agreed that the Standby charge would continue on an interim basis. The standby charge is applied in the GS 50 – 4,999 kW rate class and has a distinct rate from the distribution volumetric rate. This rate is proposed to increase by the overall status quo rate increase in this proceeding. In interrogatories, CNPI explained the

[15] Exhibit 7, pages 5-6.

[16] Settlement Proposal, Attachment D, Settlement Conference Clarification Questions, 7-Staff-107 c)

standby customer has a transmission connection, and its reliance on the distribution system is less than a typical load displacement customer.

OEB staff has no concerns with the proposals for rate design.

Issue 4.0 Accounting

In the settlement proposal, the parties agreed to dispose of CNPI's Group 1 Deferral and Variance Account (DVA) balances, in the credit amount of $396,919 as at December 31, 2020.[17] The parties have also agreed to dispose of CNPI's Group 2 DVA balances, in the credit amount of $2,582,456, and Lost Revenue Adjustment Mechanism Variance Account balance, a debit amount of $54,370, as at December 31, 2020.[18] The above-noted amounts include forecasted interest to December 31, 2021. All DVA balances are to be disposed over a one-year period, on a final basis.[19]

OEB staff supports the settlement proposal reached by parties and makes the following submission on particular aspects of the DVAs.

Account 1588 and Account 1589 Error

During the settlement negotiations, CNPI identified and brought forward to the parties an error in the calculation underpinning the final disposition of Account 1588 and Account 1589 for the year 2019.[20] This error resulted in the incorrect allocation of amounts between Account 1588 and Account 1589. The 2019 balances were cleared on a final basis in CNPI's 2021 rates proceeding.[21]

To address this error, the parties agreed to an adjusting journal entry, despite the 2019 balances having already been cleared on a final basis. Originally, CNPI proposed to record equal and offsetting entries between Account 1588 and Account 1589. Parties subsequently agreed to an adjusting journal entry that results in $160,000 being recorded as a loss to CNPI, rather than a nil impact to the utility. A comparison

[17] DVA Continuity Schedule, November 22, 2021, Tab 2a
[18] Some Group 2 accounts include forecasted 2021 balances as noted below; DVA Continuity Schedule, November 22, 2021, Tab 2b
[19] Settlement Proposal, November 22, 2021, page 34
[20] Settlement Proposal, November 22, 2021, page 35 & 36; Appendix G - Detailed Calculation of 1588 and 1589 Adjustment
[21] EB-2020-0008

summary is shown in Table 2 below.[22] As also noted in the settlement proposal, the parties gave due consideration to the OEB's October 31, 2019 letter titled *Adjustments to Correct for Errors in Electricity Distributor "Pass-Through" Variance Accounts After Disposition* (Error Correction Letter).

Table 2 - Summary of Account 1588 and Account 1589 Adjustments

Account	Originally Proposed Adjusting Journal Entry	Proposed Adjusting Journal Entry per Settlement
1588	($326,657)	($246,657)
1589	$326,657	$86,657
Amount Foregone by CNPI	$0	$160,000

In the context of the settlement proposal, OEB staff does not take issue with this adjusting journal entry agreed to by parties and submits that the proposal is consistent with the OEB's expectations, as set out in the Error Correction Letter, to allow retroactive adjustments on a case-by-case basis. The Error Correction Letter also noted that an asymmetrical approach to the correction of errors may be appropriate and OEB staff notes that the $160,000 adjustment being incurred as a loss to CNPI will benefit ratepayers.

Group 2 DVAs

In the settlement proposal, the parties agreed that Account 1592, sub-account CCA changes, will, from 2022 to CNPI's next rebasing application, only capture the impact of any further changes to the CCA rules, beyond those contemplated in this proceeding.[23] OEB staff agrees with this approach.

CNPI had proposed to continue Account 1508 – Other Regulatory Assets – Sub Account – Pole Attachment Charges for the purpose of recording any material cost impacts that may arise from the *Building Broadband Faster Act, 2021*.[24] CNPI further stated that it does not anticipate accumulating any variances in this sub-account, provided that pole attachment charges approved moving forward are consistent with

[22] Settlement Proposal, November 22, 2021, page 36; Appendix G - Detailed Calculation of 1588 and 1589 Adjustment
[23] Settlement Proposal, November 22, 2021, page 20 & 34
[24] 9-Staff-109

those set out in CNPI's approved rates. The parties have agreed that the proposed expansion of this sub-account to include impacts from legislation related to the expansion of broadband internet is withdrawn.[25] However, a caveat is in place that CNPI will be eligible to access any generic mechanism that the OEB may provide to regulated distributors in connection with such legislation. OEB staff takes no issue with this approach.

The parties have agreed with the disposition of forecasted 2021 principal balances for the accounts listed below:

- Account 1508 – Other Regulatory Assets – Sub Account – Pole Attachment Charges
- Account 1508 – Other Regulatory Assets – Sub Account – Retail Service Charges
- Account 1592 – PILs and Tax Variance, Sub-account CCA Changes

OEB staff does not take issue with CNPI keeping the above listed sub-accounts open.

OEB staff notes that, typically, audited balances are disposed, but there are exceptions to this requirement. For example, in the disposition of retail service charge related variance accounts and sub-account for Pole Attachment Charges, the OEB may consider disposing forecasted amounts up to the effective date of rebased rates.[26] OEB staff's view is that there would be regulatory efficiencies to be gained and less intergenerational inequity by disposing the forecasted 2021 principal balances in these three accounts in the current application, rather than waiting for the 2021 balances to be audited and be disposed in CNPI's next cost of service proceeding (expected for 2027 rates).

Pension and OPEBs Issues Under Review

In the settlement proposal for another subsidiary of FortisOntario, Algoma Power Inc. (Algoma), there was an agreement to remove the amortization of actuarial gains and losses related to pensions and OPEBs in the 2020 test year revenue requirement, in an

[25] Settlement Proposal, November 22, 2021, page 34 & 35
[26] Chapter 2 Filing Requirements for Electricity Distribution Rate Applications – 2021 Edition for 2022 Rate Applications, June 24, 2021, page 58 & 71.

effort to enhance alignment around OEB policy.[27] In CNPI's current proceeding, parties agreed with the establishment of the following sub-accounts, effective January 1, 2022, with parties noting that this approach is consistent with those incorporated into the Algoma settlement proposal.[28] These sub-accounts will accumulate all amortized actuarial gains and losses related to pension and OPEBs.

- Account 1508 Other Regulatory Assets, Subaccount – Accumulated Amortized Pension Actuarial Gains/Losses
- Account 1508 Other Regulatory Assets, Subaccount – Accumulated Amortized OPEB Actuarial Gains/Losses

As the actuarial gains and losses related to pension and OPEBs will be tracked in the above sub-accounts, CNPI has not included any actuarial gains or losses related to pension and OPEBs in the 2022 test year revenue requirement. As a result, CNPI's 2022 capital additions were decreased by $41,950 and its 2022 OM&A expenses were decreased by $60,661 to reflect this approach.[29] OEB staff supports this approach, as it essentially mirrors the approach that some utilities, particularly under International Financial Reporting Standards (IFRS), are using with respect to actuarial gains and losses.

The following pension and OPEB legacy sub-accounts were established by the OEB in a prior CNPI proceeding.[30]

- Account 1508 – Other Regulatory Assets – Pension Deferral sub-account
- Account 1508 – Other Regulatory Assets – OPEB Deferral sub-account
- Account 1508 – Other Regulatory Assets – Pension Expense Variance subaccount
- Account 1508 – Other Regulatory Assets – OPEB Expense Variance sub-account

As part of the settlement proposal, CNPI agreed to review the continued use of these legacy sub-accounts and bring forward the results of that review in its next cost of

---

[27] EB-2019-0019, Algoma Power Inc., Settlement Proposal, September 24, 2019, pg. 47-49
[28] Settlement Proposal, November 22, 2021, page 35; Appendix E - Issues CNPI will review relating to Pension and OPEBs (page 46)
[29] Settlement Proposal, November 22, 2021, page 35; 4-Staff-97
[30] EB-2013-0368, EB-2013-0369, Decision and Order, December 12, 2013; EB-2013-0368, EB-2013-0369, Accounting Order, January 9, 2014

service proceeding.[31] CNPI also agreed to examine whether it is appropriate for it to continue to set its base rates in its next cost of service proceeding underpinned by the Accounting Standards for Private Enterprises (ASPE) Section 3461, rather than ASPE Section 3462, given that Section 3461 is no longer in use. CNPI agreed to include a proposed allocation of balances within these legacy Account 1508 sub-accounts between CNPI's regulated distribution operations and regulated transmission operations, given that only regulated distribution operations should be included in these accounts.

Additional detail regarding the above issues and tasks were listed in Appendix E to the settlement proposal.[32] OEB staff supports CNPI's commitment to address these issues and tasks, as set out in this Appendix E and in the body of the settlement proposal.

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

CNPI is not requesting to change any of its specific service charges and does not have a utility specific wireline pole attachment charge and uses the OEB approved generic charge for pole attachments. The parties agreed that the proposed Retail Service Charges and Pole Attachment Charge may be subject to an inflationary increase for 2022, if so directed by the OEB.

On November 25, 2021, the OEB issued its Decision and Rate Order on Retail Service Charges, which adjusted the 2022 Retail Service Charges by inflation.[33] CNPI used an inflation of 2.2% as a placeholder in the settlement proposal and the Decision and Rate Order on Retail Service Charges used an inflation of 3.3%. OEB staff submits that the inflation for the Retail Service Charges should be 3.3%, which is the OEB's inflation factor for electricity distributors for 2022.[34]

CNPI has not changed the Pole Attachment Charge from the 2021 approved level. Since the OEB has not issued a decision on the Pole Attachment Charge, OEB staff

---

[31] Settlement Proposal, November 22, 2021, page 35; Appendix E - Issues CNPI will review relating to Pension and OPEBs (page 46)
[32] Settlement Proposal, November 22, 2021, Appendix E - Issues CNPI will review relating to Pension and OPEBs (page 46)
[33] EB-2021-0301 Decision and Order, November 25, 2021
[34] EB-2021-0301 Inflationary Adjustment Effective January 1, 2022 for Energy Retailer Service Charges for Electricity Distributors, November 25, 2021

submits that maintaining the 2021 value is reasonable until such time as the OEB orders otherwise.

Issue 5.2 Is the proposed effective date for 2022 rates appropriate?

The parties have agreed that CNPI's new rates should be effective on January 1, 2022 or at the earliest possible date after January 1, 2022 as would be feasible for CNPI to implement new rates following the issuance of the OEB's Decision. CNPI filed its application on June 30, 2021, two months after the established deadline for January 1 filers.

OEB staff notes that on April 27, 2021 and May 27, 2021, CNPI filed a letter seeking an extension until May 31, 2021 and June 30, 2021, respectively, to file its application for January 1 rates. The OEB granted CNPI's request and stated that "any delays to the filing of Canadian Niagara Power's application could affect the timing of the OEB's final decision in this matter."[35]

Given that there was a two-month delay in CNPI filing its cost of service application, OEB staff submits that allowing for the possibility of a later effective date with no opportunity to recover forgone revenue is reasonable. If CNPI can implement rates starting with January 1, 2022 consumption, OEB staff does not oppose the agreement notwithstanding the delay in filing.

Issue 5.3 – Is CNPI's proposal to maintain the existing interim status for the standby charge appropriate?

The parties agreed for CNPI to maintain the existing interim status of its standby charge for the purpose of settlement.

CNPI's standby charge has historically been applied to a single customer in the Port Colborne service area. However, in recent years CNPI has observed at least two additional customers where standby contracts could be considered. Accordingly, CNPI intends to develop a standby charge methodology prior to its next cost of service application. The methodology will include consultation with potential standby customers,

[35] OEB Letter – Delay in Filing 2022 Cost of Service Application, April 30, 2021 and June 1, 2021

as well as any potential outcome of the OEB's policy consultation on Rate Design for Commercial and Industrial Customers.

OEB staff submits that it is reasonable for CNPI to maintain the interim status of the standby charge as CNPI develops a new methodology.

All of which is respectfully submitted