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

DECISION AND ORDER

EB-2021-0018

ENERGY+ INC.

Application for rates and other charges to be effective January 1, 2022

BEFORE: **Allison Duff**
Presiding Commissioner

Patrick Moran
Commissioner

December 21, 2021

1 OVERVIEW

The Ontario Energy Board is approving changes to the rates that Energy+ Inc. charges to distribute electricity to its customers, effective January 1, 2022. The OEB approves a Price Cap rate increase of 3.15% and $7.8 million of incremental capital funding.

2 CONTEXT AND PROCESS

The Ontario Energy Board is approving changes to the rates that Energy+ Inc. charges to distribute electricity to its customers, effective January 1, 2022.

Energy+ filed its application on August 16, 2021 under section 78 of the *Ontario Energy Board Act, 1998* and in accordance with Chapter 3 of the OEB's *Filing Requirements for Incentive Rate-Setting Applications*. The application was based on the Price Cap Incentive Rate-setting (Price Cap IR) option, with a five-year term.

The Price Cap IR option is one of three incentive rate-setting mechanisms (IRM) approved by the OEB.[1] It involves the setting of rates through a cost of service application in the first year and mechanistic price cap adjustments which may be approved through IRM applications in each of the ensuing four adjustment years.

The OEB follows a standardized and streamlined process for hearing IRM applications filed under Price Cap IR. In each adjustment year of a Price Cap IR term, the OEB prepares a Rate Generator Model that includes, as a placeholder, information from the distributor's past proceedings and annual reporting requirements. A distributor will then review, complete, and include the model with its application, and may update the model during the proceeding to make any necessary corrections or to incorporate new rate-setting parameters as they become available.

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.

Notice of the application was issued on September 1, 2021. School Energy Coalition (SEC), Toyota Motor Manufacturing Canada Inc. (TMMCI) and Vulnerable Energy Consumers Coalition (VECC) requested intervenor status. SEC and VECC requested cost eligibility. The OEB approved SEC, TMMCI and VECC as intervenors. The OEB approved cost eligibility for SEC and VECC.

The application was supported by pre-filed written evidence and a completed Rate Generator Model and as required during the proceeding, Energy+ updated and clarified the evidence.

Energy+ responded to interrogatories from OEB staff, SEC and VECC. OEB staff, SEC, and VECC filed submissions on the application, and Energy+ filed a reply.

[1] Each of these options is explained in the OEB's *Handbook for Utility Rate Applications*.

3 DECISION OUTLINE

Each of the following issues is addressed in this Decision, together with the OEB's findings.

- Annual Adjustment Mechanism
- Retail Transmission Service Rates
- Group 1 Deferral and Variance Accounts
- Advanced Capital Module

Instructions for implementing Energy+'s new rates and charges are set out in the final section of this Decision.

This Decision does not address rates and charges approved by the OEB in prior proceedings, such as specific service charges[2] and loss factors, which are out of scope in an IRM proceeding and no further approvals are required to continue to include them on the distributor's Tariff of Rates and Charges.

[2] Certain service charges are subject to annual inflationary adjustments to be determined by the OEB through a generic order. For example, the Decision and Order EB-2021-0301, issued November 25, 2021 established the adjustment for energy retailer service charges, effective January 1, 2022; and the Order EB-2021-0302, issued December 16, 2021, set the Wireline Pole Attachment Charge for January 1, 2022.

4 ANNUAL ADJUSTMENT MECHANISM

Energy+ has applied to change its rates, effective January 1, 2022, based on a mechanistic rate adjustment using the OEB-approved **inflation minus X-factor** formula applicable to IRM applications. The adjustment applies to distribution rates (fixed and variable) uniformly across all customer classes.[3]

The components of the Price Cap IR adjustment formula applicable to Energy+ are set out in the table below. Inserting these components into the formula results in a 3.15% increase to Energy+'s rates: **3.15% = 3.30% - (0.00% + 0.15%)**.

Table 4.1: Price Cap IR Adjustment Formula

Components		Amount
Inflation Factor[4]		3.30%
X-Factor	Productivity[5]	0.00%
	Stretch (0.00% to 0.60%)[6]	0.15%

An inflation factor of 3.30% applies to all IRM applications for the 2022 rate year.

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. The OEB issued its Decision and Order on November 18, 2021, establishing the 2022 inflation factor.

The X-factor is the sum of the productivity factor and the stretch factor. It is a productivity offset that varies among different groupings of distributors. Subtracting the X-factor from inflation ensures that rates decline in real, constant-dollar terms, providing distributors with a tangible incentive to improve efficiency or else experience declining net income. The productivity component of the X-factor is based on industry conditions over a historical study period and applies to all IRM applications for the 2022 rate year.

[3] The adjustment does not apply to the following components of delivery rates: rate riders, rate adders, low voltage service charges, retail transmission service rates, wholesale market service rate, smart metering entity charge, rural or remote electricity rate protection charge, standard supply service – administrative charge, transformation and primary metering allowances, loss factors, specific service charges, microFIT charge, and retail service charges.

[4] EB-2021-0212, Decision and Order, November 18, 2021

[5] Report of the Ontario Energy Board – "Rate Setting Parameters and Benchmarking under the Renewed Regulatory Framework for Ontario's Electricity Distributors", EB-2010-0379, December 4, 2013

[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

The stretch factor component of the X-factor is distributor specific. The OEB has established five stretch factor groupings, within a range from 0.00% to 0.60%. The stretch factor assigned to any particular distributor is based on the distributor's total cost performance as benchmarked against other distributors in Ontario. The stretch factor assigned to Energy+ is 0.15%, resulting in a rate adjustment of 3.15%, based on the Price Cap IR adjustment formula.

Findings

Energy+'s request for a 3.15% rate adjustment is in accordance with the updated parameters set by the OEB for 2022. The adjustment is approved, and Energy+'s new rates shall be effective January 1, 2022.

5 RETAIL TRANSMISSION SERVICE RATES

Energy+ is partially embedded within Hydro One Networks Inc.'s distribution system.

To recover its cost of transmission services, Energy+ requests approval to adjust the retail transmission service rates (RTSRs) that it charges its customers in accordance with the Uniform Transmission Rates (UTRs) and host distributor RTSRs currently in effect.

Findings

Energy+'s proposed adjustment to its RTSRs is approved. In its Draft Rate Order, Energy+ shall incorporate the OEB-approved 2022 UTRs and 2022 host-RTSRs to adjust the RTSRs that Energy+ will charge its customers.[7]

UTRs and host-RTSRs are typically approved annually by the OEB. If new UTRs or host-RTSRs take effect during Energy+'s 2022 rate year, any differences from the prior-approved UTRs and host-RTSRs are to be captured in Retail Settlement Variance Accounts 1584 (Retail Transmission Network Charge) and 1586 (Retail Transmission Connection Charge).

[7] EB-2021-0276, Decision and Rate Order, December 16, 2021; EB-2021-0032, Decision and Rate Order, December 14, 2021

6 GROUP 1 DEFERRAL AND VARIANCE ACCOUNTS

In each year of an IRM term, the OEB will review a distributor's Group 1 deferral and variance accounts in order to determine whether those balances should be disposed. OEB policy states that Group 1 account balances should be disposed if they exceed, on a net basis (as a debit or credit), a pre-set disposition threshold of $0.001 per kWh, unless a distributor justifies why balances should not be disposed.[8] If the net balance does not exceed the threshold, a distributor may still request disposition.

The 2020 year-end net balance for Energy+'s Group 1 accounts eligible for disposition, including interest projected to December 31, 2021, is a debit of $3,231,907, and pertains to variances accumulated during the 2020 calendar year. This amount represents a total debit claim of $0.0019 per kWh, which exceeds the disposition threshold. Energy+ has requested disposition of this amount over a one-year period.

In its pre-filed evidence, Energy+'s disposition request included 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 its approved loss factors were insufficient for full recovery of its 2020 energy purchases.[9] Energy+ stated that the large Account 1588 claim is also due to variances between unbilled estimates and actuals in its energy revenue.

In its written submission, OEB staff suggested that Energy+ should record the difference between unbilled and actual revenue in Accounts 1588 and 1589 as 2020 principal adjustments, to be consistent with the OEB's accounting guidance, as well as to increase the accuracy of the claim.[10] OEB staff further submitted 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 and provide the results of the investigation in its next IRM application.

No other parties made comments on these issues.

In its reply submission, Energy+ updated its claim for Accounts 1588 and 1589 to account for differences between unbilled and actual revenue (a credit adjustment of $161,372 in Account 1588 and a debit adjustment of $107,297 in Account 1589). Energy+ further stated that it will investigate the differences between the approved loss factors and actual system losses and document the findings in its next rate application.

[8] Report of the OEB – "Electricity Distributors' Deferral and Variance Account Review Initiative (EDDVAR)", EB-2008-0046, July 31, 2009
[9] 1-Staff-2; 1-Staff-3
[10] Accounting Procedures Handbook Update – Accounting Guidance Related to Commodity Pass-through Accounts 1588 and 1589, February 21, 2019

Included in the Group 1 accounts are certain variances related to costs that are paid for by a distributor's customers on different bases, depending on their classification. Namely, "Class A" customers, who participate in the Industrial Conservation Initiative, pay for Global Adjustment (GA) charges based on their contribution to the five highest Ontario demand peaks over a 12-month period. "Class B" customers pay for GA charges based on their monthly consumption totals, either as a standalone charge or embedded in the Regulated Price Plan (RPP).[11] A similar mechanism applies to Class A and Class B customers for Capacity Based Recovery (CBR) charges.[12] The balance in the GA variance account is attributable to non-RPP Class B customers and is disposed through a separate rate rider. The balance in the CBR Class B variance account is attributable to all Class B customers.

Energy+ had Class A customers during the period in which variances accumulated, however, the CBR Class B rate riders calculated rounded to zero at the fourth decimal place in one or more of the rate classes. In this event, the balance of the CBR Class B variance account is disposed along with Account 1580 – Wholesale Market Service Charge through the general Deferral and Variance Account rate rider.

During the period in which variances accumulated, Energy+ had customers transition between Class A and Class B. Under the general principle of cost causality, customer groups that cause variances which are recorded in Group 1 accounts should be responsible for paying (or receiving credits) for their disposal. Energy+ has proposed to allocate a portion of the GA Class B balance to its transition customers, based on their customer-specific consumption levels.[13] The amounts allocated to each transition customer are proposed to be recovered (or refunded, as applicable), by way of 12 equal monthly installments.

Findings

The balances proposed for disposition reconcile with the amounts reported as part of the OEB's *Electricity Reporting and Record-Keeping Requirements.*

The OEB approves the disposition of a debit balance of $3,231,907 as of December 31, 2020, including interest projected to December 31, 2021 for Group 1 accounts on a final basis.

The OEB expects Energy+ to investigate the differences between its approved loss factors and actual system losses and document the findings in its next IRM application.

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[11] For additional details on the Global Adjustment charge, refer to the Independent Electricity System Operator (IESO)'s website.
[12] All Class B customers (RPP and non-RPP) pay the CBR as a separate charge based on their monthly consumption. For additional details on the CBR for Class A customers, refer to the IESO's website.
[13] 2022 IRM Rate Generator Model, Tab 6.1a GA Allocation and Tab 6.2a CBR B_Allocation

Table 6.1 identifies the principal and interest amounts, which the OEB approves for disposition.

Table 6.1: Group 1 Deferral and Variance Account Balances

Account Name	Account Number	Principal Balance ($) A	Interest Balance ($) B	Total Claim ($) C=A+B
LV Variance Account	1550	(26,648)	(1,494)	(28,143)
Smart Meter Entity Variance Charge	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	1,387,306	8,239	1,395,544
RSVA - Global Adjustment	1589	841,897	19,841	861,738
Totals for Group 1 accounts		**3,197,282**	**34,625**	**3,231,907**

The balance of each of the Group 1 accounts approved for disposition shall be transferred to the applicable principal and interest carrying charge sub-accounts of Account 1595. Such transfer shall be pursuant to the requirements specified in the *Accounting Procedures Handbook for Electricity Distributors.*[14] The date of the transfer must be the same as the effective date for the associated rates, which is generally the start of the rate year.

The OEB approves these balances to be disposed through final rate riders, charges, or payments, as calculated in the Rate Generator Model. The final rate riders, charges, and payments, as applicable, will be in effect over a one-year period from January 1, 2022 to December 31, 2022.[15]

[14] Article 220, Account Descriptions, Accounting Procedures Handbook for Electricity Distributors, effective January 1, 2012
[15] 2022 IRM Rate Generator Model Tab 6.1 GA, Tab 6.1a GA Allocation, Tab 6.2 CBR B, Tab 6.2a CBR B_Allocation and Tab 7 Calculation of Def-Var RR

7 Advanced Capital Module (ACM)

The OEB's ACM policy was established to address the treatment of a distributor's incremental capital requests as part of the distributor's cost of service application. In order to qualify for ACM funding, a distributor must satisfy the OEB's eligibility criteria of materiality, need and prudence.[16]

In Energy+'s 2019 cost of service proceeding (2019 Rate Application), the utility requested $8.1 million in funding, under the OEB's 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. The OEB found that Energy+ did not provide sufficient evidence in support of the reasonableness of the $8.1 million cost estimate for the facility and approved $6.5 million for the ACM. 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.[17]

The 2019 Decision approved $6.5 million for the ACM based on benchmarking the estimated cost for the Southworks facility to other utilities' administrative-only facilities as comparators and adjusting for the OEB's IRM inflation index. The OEB used an average of $300 / sq.ft. and applied that average to the area to be developed (21,892 square feet) and arrived at the $6.5 million cost estimate. [18]

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. In support of its motion, Energy+ filed evidence from a real estate firm, CBRE Limited, 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 dismissed the motion at the threshold stage as it did not identify grounds that raised a question as to the correctness of the Decision such that a review based on those grounds could result in the OEB varying, cancelling or suspending the Decision.[19]

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[16] The OEB's policy for the funding of incremental capital is set out in the *Report of the Board New Policy Options for the Funding of Capital Investments: The Advanced Capital Module*, September 18, 2014 (ACM Report) and the subsequent *Report of the OEB New Policy Options for the Funding of Capital Investments: Supplemental Report* (Supplemental Report)
[17] EB-2018-0028, Decision and Order, June 18, 2019 (2019 Decision), Page 14
[18] 2019 Decision, page 13
[19] EB-2018-0028, Decision and Order on Motion to Review and Vary, December 5, 2019 (Motion Decision), page 11

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. The evidence filed in the motion to review could have been provided in the 2019 Rate Application and arguing that the OEB IRM inflation factors were the wrong measure was an attempt to re-argue the 2019 Rate Application.[20]

Summary of Parties' Submissions

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 approved by the OEB in the 2019 Decision. Energy+ submitted that the increase is comprised of the following:

- $1.1 million due to inflationary impacts
- $0.41 million due to COVID-19 impacts
- $0.69 million in other unforeseen cost

Energy+ also stated that there was also an offsetting $0.57 million decrease in costs through value engineering.

The parties' submissions on each of the factors contributing to the increased costs is summarized below.

<u>Inflationary Impacts</u>

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.[21]

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.[22]

OEB staff submitted that this expert evidence was also filed by Energy+ with its motion to review the 2019 Decision.[23] OEB staff submitted that inflation was already decided in the 2019 Decision and Motion Decision. Energy+ should not be eligible to recover this additional inflationary amount through this proceeding for ACM funding or as an addition to rate base in its next rebasing. OEB staff stated that Energy+ has not demonstrated

[20] Motion Decision, page 9
[21] Application, page 119
[22] IR response to 1-Staff-8
[23] OEB Staff Submission, page 8

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.[24]

The SEC and VECC submissions were aligned with OEB staff's position.

SEC submitted that Energy+'s claimed inflationary impacts is an attempt to revise the $300/sq.ft. benchmark that was included in the 2019 Decision to $351/sq.ft. by adjusting the two comparator facilities over time. SEC further submitted that the OEB's use of external benchmarking was intended to focus, not on the Southworks cost, but on the reasonable cost of an administration building.[25]

VECC submitted that Energy+ arrived at the $351/sq.ft. benchmark resulting in an approximate $1.1 million difference in project inflation. VECC submitted that this application should not provide another chance for Energy+ to re-argue its case with respect to the benchmarking, extrapolation and inflation index applied.[26]

In its reply submission, Energy+ disagreed with all parties on this issue and submitted that:

- the 2019 Decision provided an opportunity to address any deviation from the approved funding envelope of $6.5 million including inflationary cost drivers particular to the construction industry and
- the inflationary impacts are supported by expert evidence and demonstrate the difference between the actual costs and the assumptions used to arrive at the approved ACM funding envelope.[27]

In its reply submission, Energy+ filed the CBRE report as evidence as it was useful in the context of this application.[28] CBRE recommended using Statistics Canada's Building Construction Price Index – Office Buildings – Toronto as the most appropriate index for inflation in the construction industry and for the Southworks facility.[29] Energy+ explained that the $1.1 million resulted from using the same two benchmark costs the OEB used to approve $6.5 million, then isolating and quantifying the impacts solely due to inflation in the construction industry.[30] Further, the inflationary costs in the construction industry are entirely outside of Energy+'s management's control and that to deny recovery of

[24] OEB Staff Submission, page 7
[25] SEC Submission, pp 3 - 4
[26] VEC Submission, page 3 and referring to Application, Appendix F
[27] Reply Submission, para 33
[28] Reply Submission, para 39 and referring to Application, Appendix G
[29] Reply Submission, para 41
[30] Reply Submission, paras 43-44

these costs would be akin to a ruling that these incremental inflationary costs were somehow imprudent.[31]

COVID-19 Impacts

Energy+ stated that due to the COVID-19 pandemic, it incurred $0.41 million in additional material, health and safety costs related to the Southworks facility.

OEB staff did not agree with Energy+'s proposal to recover the incremental costs of COVID-19 through the ACM mechanism. OEB staff stated that 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.

OEB staff noted that a sub-account for the capital-related revenue requirement was established specifically for capital-related impacts[32] and that it would be appropriate to capture these COVID-19 costs in that sub-account.

Similarly, SEC and VECC submitted that the COVID-19 costs are required to be included in the COVID-19 account and not submitted as part of the ACM application. SEC and VECC each noted that allowing Energy+ to recover this amount through the ACM would result in customers paying 100% of the costs, as opposed to 50% if included in the COVID-19 sub account without the means test established in the COVID Report. SEC submitted that the OEB should allow Energy+ to include $0.41 million of additional costs caused by COVID-19 in Account 1509, with possible recovery of some, or all, of the amount if it meets the requirements for disposition in the COVID Report.[33]

In reply, Energy+ disagreed with the position that the COVID-19 sub account should be used instead of recovery through ACM funding. There is a means test for ACM funding and it should not be substituted for the means test for COVID-19 relief established in the COVID Report, thus undermining the policy objectives of the ACM Report.[34]

Energy+ further cited three ICM decisions approved by the OEB between December 2020 and May 2021, claiming it is "impossible to believe" that cost increases were not partly driven by the impacts of the COVID-19 pandemic.[35]

[31] Energy+ Reply Submission, para 46
[32] COVID Report, page 42
[33] SEC Submission, page 5
[34] Reply Submission, para 82
[35] Energy+ Reply Submission, paras 88-92

Other Unforeseen Costs

Energy+ stated that it incurred other unforeseen costs such as firewall construction, legal and real estate fees, conduit replacement, waterproofing, and design consistency, which total $0.69 million.[36] VECC took no issue with the recovery of unforeseen costs.

OEB staff submitted that the $0.69 million in other unforeseen costs is reasonable to include in the updated ACM total claim. While the cost for the firewall construction ($0.27 million) was not included in the original estimate, OEB staff submitted that the firewall was required and that the cost Energy+ incurred as part of the Purchase and Sale Agreement is reasonable. OEB staff further supported the remaining balance of $0.42 million as it represents 6.5% of the OEB approved envelope of $6.5M and in OEB staff's view, these costs can reasonably be regarded as unforeseen and prudently incurred.[37]

SEC submitted that the unforeseen costs should not be eligible for recovery. SEC noted that these costs are either higher than originally forecast or not included in the 2019 Rate Application.

In reply, Energy+ disagreed with SEC's interpretation of the 2019 Decision. Energy+ stated that the approved funding envelope of $6.5 million was established using benchmark comparisons, and that it was permitted to address any deviation from this amount within the current application.

ACM Parameters

Energy+ updated its 2022 capital budget in the ACM model from $22.07 million to $23.50 million, for an increase of $1.43 million.

OEB staff submitted that the update was reasonable and that the maximum eligible incremental capital changed from $13.3 million, as approved in Energy+'s 2019 Rate Application, to $12.9 million in the current application, which exceeded the $8.15 million in proposed ACM funding.

Findings

The OEB approves ACM capital funding of $7.8 million for the Southworks facility. The OEB has considered the $6.5 million approved in the 2019 Decision, and the evidence and submissions on construction inflation, COVID-19 costs and unforeseen factors. The OEB has examined the forecast cost for funding of $8.15 million and is not satisfied on

[36] Reply Submission, para 93
[37] OEB Staff Submission, page 10

the evidence that Energy+ has established that the additional $1.65 million has been prudently incurred.

The $6.5 million approved in the 2019 Decision is the logical starting point for considering the proposed $8.15 million cost. The OEB has considered the prudence of the $1.65 million cost increase and the value to customers of an $8.15 million administrative building. The underlying principle is that a utility is entitled to recover its reasonably incurred costs to provide service to customers. Customers should be expected to pay for the services that they benefit from. In the context of a capital project, costs must also be prudently incurred.

The 2019 Decision indicated that there was insufficient evidence to approve the proposed budget of $8.1 million as prudent. The 2019 Decision referenced similar administrative facilities for other electricity distributors as benchmarks and questioned the quality of the $8.1 million cost estimate.

The OEB's ACM Report requires distributors to explain and justify any changes in project costs in the subsequent IRM application when funding is approved. The OEB must decide whether Energy+ has filed sufficient evidence to demonstrate the prudence of the $8.15 million capital expenditure, which is slightly more than the $8.1 million originally proposed and denied in the 2019 Rate Decision. The 2019 Decision approved $6.5 million as a "funding envelope" and indicated that Energy+ would have the opportunity to address any deviation from this amount. Energy+ is now taking the opportunity to do so.

Subsequent to the 2019 Decision, the evidence indicates that Energy+ did the following:

- Retained a value engineering consultant which led to a cost estimate decrease of $0.57 million;
- Contracted with CBRE, which provided a third-party estimate of the construction costs for the Southworks facility of $7.8 million and reviewed the 2019 Decision in the context of construction inflation; and
- Proceeded with its preferred option for an administrative building.

In its evidence, Energy+ attributed the $1.65 million increase to the cost categories of inflation, COVID-19 costs and unforeseen factors.

The OEB does not find the inflation analysis particularly helpful in understanding the cost increase. Energy+ attributes $1.1 million of the additional cost by recalculating benchmarks referenced in the 2019 Decision. The OEB finds it is inappropriate to go back in time, prior to the 2019 Decision, and recalculate the benchmarks from 2009 to

2019 on which the $6.5 million was based. The OEB agrees with SEC and VECC that Energy+ is, to some extent, rearguing the 2019 Decision. The OEB has similar concerns with Energy+'s characterization of $0.69 million in "unforeseen costs". It is puzzling, for example, that Energy+ did not foresee legal and real estate fees as part of their 2019 cost estimate. In contrast, the OEB regards COVID-19 related costs as unforeseen.

Instead, the OEB recognizes that to the extent that Energy+ used a competitive tendering process for much but not all the work on the project, the incurred costs implicitly took into account inflation and this is sufficient demonstration of the prudence of those tendered costs. The OEB also accepts the evidence of significant cost increases for construction materials and labour during construction, because of the COVID-19 pandemic.

Energy+ presented the $1.65 million increase in different ways. In Table 7.1 of the evidence, Energy+ provides a variance analysis comparing its original ACM Application estimate to the 2019 Decision and its revised June 2021 ACM funding forecast.

Table 7.1 – Summary of Southworks Cost Forecast[38]

Item	2019 COS Class C Estimate	2019 COS Approved Funding Envelope	June 2021 Forecast	Variance to COS Funding Envelope
Sitework Costs	$ 305,525	$ 245,181	$ 44,344	$ 199,163
Building Costs	$ 4,580,203	$ 3,675,566	$ 4,549,299	$ 873,733
General Conditions	$ 681,477	$ 546,879	$ 791,626	$ 244,747
Allowances	$ 735,815	$ 590,484	$ 458,933	$ (131,551)
Professional Fees	$ 450,000	$ 361,120	$ 455,000	$ 93,880
Construction Total	**$ 6,753,020**	**$ 5,419,229**	**$ 6,699,201**	**$ 1,279,972**
Soft Costs	$ 1,346,772	$ 1,080,771	$ 1,453,715	$ 372,944
Total	**$ 8,099,792**	**$ 6,500,000**	**$ 8,152,916**	**$ 1,652,916**

The OEB finds Table 7.1 unsatisfactory in explaining the $1.65 million cost increase. First, Energy+ has taken the OEB's funding envelope of $6.5 million and pro-rated it into cost categories that did not form part of the OEB's 2019 Decision. Second, Energy+ uses those categories to develop an artificial variance analysis that is not of any assistance in understanding the prudence of the costs incurred. For example, Energy+ says it incurred "soft costs" of $1.45 million, representing an increase of $0.37 million from what the OEB approved, when in fact, the OEB did not approve any quantum of soft costs. Interrogatory responses[39] explained that soft costs included professional fees for architectural, engineering work and the firewall, which would appear to relate to construction, yet there is a separate category for "professional fees" in the construction

[38] Manager's Summary, Page 23, Table 12
[39] IR response to VECC-4(b)

total. The increase in these fees is 28% of the total increase, The OEB finds that there is insufficient information that these costs were prudently incurred beyond what was tendered, or was the result of a COVID-19 related impact, as discussed in the previous paragraph.

In Table 16 of the evidence, Energy+ attempts to recast the $1.65 million another way, with a focus on unforeseen costs, which is also not particularly helpful to the OEB in understanding the prudence of the incremental costs.

In the final analysis, the OEB finds that there is not sufficient justification to support a finding that all of the project cost was prudently incurred.

Energy+ chose an ambitious project to meet the administrative needs of an electricity distributor and this should not lead to higher than necessary costs for customers, in the absence of benefits to customers. The OEB is not convinced that there is value to customers with all the costs incurred to rebuild a 150-year-old heritage building, such as re-pointing existing masonry and consistent design features. In the face of an OEB decision approving a funding envelope of $6.5 million, Energy+ proceeded with the project and it has ended up costing $8.15 million. Based on the findings above, the OEB approves ACM funding for $7.8 million for the Southworks facility.

As part of the $7.8 million, the OEB recognizes that it is approving some incremental COVID-19 costs associated with health and safety measures at the job site. While it is true that COVID-19 related capital costs can be recorded in Account 1509 for disposition later, the ACM process also allows a utility to bring forward all qualifying capital costs for recovery if prudently incurred. Contrary to the submissions of SEC, VECC and OEB staff, the OEB finds it appropriate to include COVID-19 costs in assessing the reasonableness and prudence of Energy+'s proposed $1.65 million cost increase for the Southworks facility.

8 IMPLEMENTATION

Energy+ shall update the Rate Generator Model, as necessary, to incorporate the rates set out in the following table.

Table 8.1: Regulatory Charges

Rate	per kWh
Rural or Remote Electricity Rate Protection (RRRP)	$0.0005
Wholesale Market Service (WMS) billed to Class A and B Customers	$0.0030
Capacity Based Recovery (CBR) billed to Class B Customers	$0.0004

Each of these rates is a component of the “Regulatory Charge” on a customer’s bill, established annually by the OEB through a separate, generic order. The RRRP, WMS and CBR rates were set by the OEB on December 16, 2021.[40]

The Smart Metering Entity Charge is a component of the “Distribution Charge” on a customer’s bill, established by the OEB through a separate order. The Smart Metering Entity Charge was set by the OEB on March 1, 2018.[41]

In the *Report of the Board: Review of Electricity Distribution Cost Allocation Policy*,[42] the OEB indicated that it will review the default province-wide microFIT charge annually to ensure it continues to reflect actual costs in accordance with the established methodology. Distributors shall apply the updated value, if applicable, following the OEB’s announcement of the microFIT charge for the 2022 rate year.

The approved effective date for new rates is January 1, 2022. The OEB notes that based on the procedures outlined in the order that follows, the rate order may not be issued in time for Energy+ to implement rates for January 1, 2022. Accordingly, the OEB declares the current (2021) distribution rates and charges of Energy+ interim as of January 1, 2022 until such time as 2022 rates and charges are approved by the OEB. If Energy+ elects to do so, it shall include in its Draft Rate Order, a calculation of forgone revenue from January 1, 2022 to February 1, 2022 and include in its Tariff of Rates and Charges a forgone revenue rate rider to be collected over an eleven-month period commencing February 1, 2022.

[40] EB-2021-0300, Decision and Order, December 16, 2021
[41] EB-2017-0290, Decision and Order, March 1, 2018
[42] EB-2010-0219, Report of the Board “Review of Electricity Distribution Cost Allocation Policy”, March 31, 2011

9 ORDER

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Energy+ Inc.'s 2021 rates shall be interim as of **January 1, 2022.**

2. Energy+ Inc. shall file with the OEB and forward to intervenors a Draft Rate Order with a proposed Tariff of Rates and Charges attached that reflects the OEB's findings in this Decision and Order, no later than **January 10, 2022**. Energy+ Inc. shall also include customer rate impacts and detailed information in support of the calculation of final rates in the draft rate order.

3. Energy+ Inc. shall investigate the differences between its approved loss factors and actual system losses and document the findings in its next IRM application, along with any proposed adjustments to the loss factors.

COST AWARDS

The OEB will issue a separate decision on cost awards once the following steps are completed:

1. School Energy Coalition and Vulnerable Energy Consumers Coalition shall submit to the OEB and copy Energy+ Inc. their cost claims no later than **January 14, 2022.**
2. Energy+ Inc. shall file with the OEB and forward to School Energy Coalition and Vulnerable Energy Consumers Coalition any objections to the claimed costs by **January 21, 2022**.
3. School Energy Coalition and Vulnerable Energy Consumers Coalition shall file with the OEB and forward to Energy+ Inc. any responses to any objections for cost claims by **January 28, 2022.**
4. Energy+ Inc. shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice.

Parties are responsible for ensuring that any documents they file with the OEB, such as applicant and intervenor evidence, interrogatories and responses to interrogatories or any other type of document, **do not include personal information** (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's Rules of Practice and Procedure.

Please quote file number, **EB-2021-0018** for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the OEB's online filing portal.

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address
- Please use the document naming conventions and document submission standards outlined in the Regulatory Electronic Submission System (RESS) Document Guidelines found at the Filing Systems page on the OEB's website
- Parties are encouraged to use RESS. Those who have not yet set up an account, or require assistance using the online filing portal can contact registrar@oeb.ca for assistance

All communications should be directed to the attention of the Registrar at the address below and be received by end of business, 4:45 p.m., on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Marc Abramovitz, at marc.abramovitz@oeb.ca and OEB Counsel, Ljuba Djurdjevic at ljuba.djurdjevic@oeb.ca.

E-mail: registrar@oeb.ca
Tel: 1-877-632-2727 (Toll free)

DATED at Toronto, December 21, 2021

ONTARIO ENERGY BOARD

Original Signed By

Christine E. Long
Registrar