



BY EMAIL and RESS

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2300 Yonge Street
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July 18, 2022
Our File: EB20220158

Attn: Nancy Marconi, Registrar

Dear Ms. Marconi:

Re: EB-2022-0158 – Niagara-on-the-Lake Hydro – SEC Submissions

We are counsel to the School Energy Coalition (“SEC”). Pursuant to Procedural Order No.1, these are SEC’s submissions on the application by Niagara-on-the-Lake Hydro Inc. (“NOTL Hydro”) to, i) amend the terms of its Specified Customer Revenue Variance Account (“SCRVA”), so that it becomes a general Large Use Customer Revenue Variance Account (“LURVA”) and, ii) adjust the Retail Transmission Service Rates (“RTSRs”) for the Large Use class to match the most recent approved Uniform Transmission Rates (“UTRs”).

SEC submits the OEB should approve the requests, as clarified through the interrogatory responses. The amendment to the SCRVA will allow NOTL to capture, to the benefit of existing customers, incremental distribution revenue from a significant new large customer. With respect to the proposal to update the Large Use Class RTSRs, SEC has no concerns.

Background

In NOTL Hydro’s 2019 rebasing proceeding, the OEB approved a Settlement Proposal, which SEC was a signatory, that included the creation of the SCRVA.¹ The rationale for the account was “the load forecast for the one customer that will be included in the Large Use Customer Class is uncertain, and it is quite large relative to NOTL Hydro’s total load.”² NOTL Hydro included in its load forecast a 5,000 kW (5 MW) demand for the Specified Customer, and the SCRVA would capture the revenue difference that arose if there was a variance between actual and forecast demand.³ Up until late 2021, the

¹ [Decision and Order \(EB-2018-0056\), April 11, 2019, Attachment A](#). The name of the Specified Customer was included as a confidential attachment to the Settlement Proposal (See Appendix J).

² [Decision and Order \(EB-2018-0056\), April 11, 2019, Attachment A, Settlement Proposal](#), p.31

³ [Decision and Order \(EB-2018-0056\), April 11, 2019, Attachment A, Settlement Proposal](#), p.47

Specified Customer's demand was above 5,000 kW, and so a monthly credit was recorded in the SCRVA.⁴

The Specified Customer has now ceased operations.⁵ NOTL Hydro has no other Large Use customers. The SCRVA now records a monthly debit amount reflective of the distribution revenue of the entire 5,000 kW load for the Specified Customer that is built into NOTL Hydro's load forecast in base rates.⁶ This monthly debit amount will accrue until NOTL Hydro rebases.

NOTL Hydro has become aware of a new customer, a cryptocurrency mining operation that is in the process of seeking required approvals to connect to its distribution system. This new customer is expected to have a demand of 20 MW, with an initial demand of 10 MW beginning this summer⁷, and possibly at some point could reach up to 80MW.⁸ At 20 MW, based on 2022 rates, the customer will generate an incremental \$397,501 in distribution revenue per year (\$33,125.08 per month)⁹, a 7% increase in NOTL Hydro's total distribution revenue on a full-year basis.¹⁰ As a point of comparison, NOTL Hydro's materiality threshold is \$50,000.¹¹

NOTL Hydro's Proposal

NOTL Hydro's application includes two proposals.

First, as clarified through interrogatory responses¹², it is seeking to amend the terms of the SCRVA so that it will no longer only record variances in distribution revenue between actual demand of the Specified Customer, and the forecast 5,000 kW included in base rates, but that of variances in distribution revenue between actual demand of all customers in its Large Use rate class, and the forecast 5,000 kW included in base rates. The effect is that customers will get the benefit of all incremental revenue from any new Large Use customers, which NOTL Hydro expects will only be the new cryptocurrency mining operation customer¹³, net of distribution revenue included in base rates from the now closed Specified Customer.

Second, NOTL Hydro seeks to update the Large Use class RTSRs to match those approved by the OEB in EB-2022-0084.¹⁴ The rationale for the request is that based on the demand profile of the new customer, a very significant variance will accrue based on the difference between NOTL Hydro's approved RTSRs (EB-2021-0045), and the more recent OEB approved UTRs (EB-2022-0084).¹⁵ At 20 MW, the variance would be \$470,184 annually (\$39,182 per month), which may have a significant cash flow impact on NOTL Hydro.¹⁶

⁴ Interrogatory Response SEC-5

⁵ NOTL Hydro Application, p.11

⁶ Interrogatory Response SEC-5

⁷ Interrogatory Response SEC-4b

⁸ Interrogatory Response Staff-1b

⁹ Interrogatory Response SEC-4c

¹⁰ This is based on NOTL Hydro's forecast total distribution revenue in 2022, excluding the new customer, of \$5.7M (See Interrogatory Response SEC-6).

¹¹ Interrogatory Response SEC-7

¹² Interrogatory Response SEC-1, SEC-2a

¹³ Interrogatory Response Staff 2a

¹⁴ NOTL Hydro Application, p.9

¹⁵ NOTL Hydro Application, p.9

¹⁶ NOTL Hydro Application, p.9

Amendments to SCRVA

SEC submits that customers should receive the benefit from the incremental distribution revenue from this new cryptocurrency mining operation customer, with a forecast demand expected to be approximately 20 MW.

The potential incremental revenue is so large, that if a distributor had lost a customer who represented that amount of distribution revenue, it would almost certainly have brought forward an application for urgent rate relief.¹⁷ It is only fair that when the opposite occurs, a new customer that could increase distribution revenue by 7%, customers benefit during the IRM period. Furthermore, considering the customers will bear the cost for the lost distribution revenue for the Specified Customer, it makes sense that they get the benefit of the revenue from this new customer. The basis for the SCRVA, that the load of this Specified Customer was "...uncertain, and quite large relative to NOTL Hydro's total load" are equally true of the new cryptocurrency mining operation customer.¹⁸

In response to SEC-1, NOTL provided a copy of the proposed amendments to the existing SCRVA Accounting Order.¹⁹ SEC recommends one change. In both the original SCRVA, and the proposed amended version, the Accounting Order states that "the amount recorded will be the difference between actual revenue collected.... and the amount of revenue forecasted to be collected for that period, based on the approved fixed and variable rates in effect during that period."²⁰ Upon review, it is not entirely clear to the reader what is referred to be by "revenue forecasted to be collected".²¹ SEC submits the Accounting Order for the LURVA should reflect that the forecast revenue is a demand of 5,000 kW.

Update to Large Use RTSRs

SEC supports the request to update NOTL Hydro's Large Use class RTSRs. The forecast variance that will accumulate in the RTSR variance accounts (RSVA 1584 and 1586) will be very large. In addition to the direct cash flow impacts to NOTL Hydro, there is inherent unfairness to all other customer classes.

The recovery of RSVA 1584 and 1586 from customers are normally done on a kWh basis, which is different than how they are incurred by NOTL Hydro. Based on the relative demand profiles among classes, this could lead to an unfair cross-subsidy between existing customers in all other rate classes and the new customer in the Large Use rate class. Additionally, if the customer ceases operations before the RTSR variances are fully recovered, it is all other customers who will be responsible for any remaining balances that should have been the responsibility of the new customer.²² Considering both the quantum of the variance, and the inherent volatility in cryptocurrency prices, it is a significant risk.

¹⁷ For example, in EB-2004-0527, the OEB approved a rate adjustment for Oakville Hydro after they lost a large customer which represented approximately 4% of its total distribution revenue. See [Decision and Order \(EB-2004-0527, June 16, 2005\)](#).

¹⁸ [Decision and Order \(EB-2018-0056\), April 11, 2019, Attachment A, Settlement Proposal](#), p.31

¹⁹ Interrogatory Response SEC-1, Attachment 1 and 2

²⁰ Interrogatory Response SEC-1, Attachment 1 and 2

²¹ Interrogatory Response SEC-1, Attachment 1 and 2

²² For 2022 balances, it will not be until the end 2024 (See Interrogatory Response Staff-2d)



Summary

SEC submits the OEB should approve the requested relief. SEC commends NOTL Hydro for bringing forward this application that could provide a significant benefit to customers.

Yours very truly,

Shepherd Rubenstein P.C.

Mark Rubenstein

cc: Ted Doherty, SEC (by email)
Applicant and intervenors (by email)