

EPCOR Electricity Distribution Ontario Inc.

**Application for electricity distribution rates and other
charges beginning January 1, 2023**

Decision on Issues List

July 28, 2022

EPCOR Electricity Distribution Ontario Inc. (EPCOR) filed a cost of service application with the Ontario Energy Board (OEB) under section 78 of the *Ontario Energy Board Act, 1998, S.O. 1998, c. 15, (Schedule B)*, seeking approval for changes to the rates that EPCOR charges for electricity distribution, beginning January 1, 2023. The application was accepted by the OEB as complete on June 10, 2022.

A Notice of Hearing was issued on June 13, 2022. The OEB issued Procedural Order No. 1¹ which approved Environmental Defence Canada Inc. (Environmental Defence), School Energy Coalition (SEC), and Vulnerable Energy Consumers Coalition (VECC) as intervenors in this proceeding. In a letter dated July 22, 2022, the OEB approved Small Business Utility Alliance (SBUA) as an intervenor in this proceeding. Procedural Order No. 1 also made provision for parties to propose an Issues List for the OEB's consideration.

On July 27, 2022, OEB staff filed a proposed Issues List with a letter. The letter confirms that the proposed Issues List is not in dispute by any parties. However, there is a dispute about the relevance of the forecast used in Collus PowerStream Corporation's (Collus PowerStream) share acquisition proceeding² (referred to below as the MAADs proceeding) compared to the actuals over the last five years and the rates applied for. As noted in OEB staff's letter, SEC advised, in an email message to parties regarding the draft Issues List, of its intention to ask questions about the forecast merger savings and compare them to actuals. SEC also advised that it is assuming that this topic is included in the draft Issues List but requested that an issue be added in the event that the draft Issues List does not cover the topic.

On July 26, 2022, EPCOR filed a letter in response to SEC's comments. EPCOR referenced the portion of the OEB's Decision and Order on the MAADs proceeding (the

¹ Issued July 15, 2022

² EB-2017-0373 and EB-2017-0374

MAADs Decision) which states “The OEB will not require EPCOR to file evidence to demonstrate how the efficiencies expected from the transaction have produced savings in its first Cost of Service Application.”³ EPCOR stated that because of this finding by the OEB, it did not set up a mechanism to track its performance in reference to the evidence from the MAADs proceeding. EPCOR stated that the evidence in the MAADs proceeding was a forecast based on limited information available during the diligence phase of the potential transaction, and solely for the purposes of addressing the OEB’s “no harm” test. EPCOR’s view is that the MAADs evidence has no relevance to the determination of “just and reasonable” rates today. EPCOR requested direction from the OEB on the relevance of the MAADs evidence in determining “just and reasonable” rates.

On July 26, 2022, SEC filed a letter in response to EPCOR’s letter. In its letter, SEC noted that the applicant is asking the OEB to approve a 14.7% weighted average rate increase for the customers. SEC submitted, in part, that it is a regular feature of proceedings before the OEB that, where utilities say they will do something, they are later asked whether they in fact did what they promised; and that when a utility tells the OEB that they are going to do something, and when what they do in fact is different, the OEB and the utility’s customers are entitled to ask why that happened. SEC submitted that questions about the differences between what the applicant forecast in 2018 and what the applicant did since then, and are planning to do in the future, are relevant to just and reasonable rates for the Test Year and should be included either expressly or by implication on the Issues List.

In its letter dated July 27, 2022, OEB staff suggested that the OEB will need to consider this dispute before the Issues List can be finalized.

Further, parties requested that the OEB waive the requirement under rule 26.02(e)(ii) of the *Rules of Practice and Procedure* that the interrogatories correspond to the Issues List. OEB staff advised the OEB that parties want to file interrogatories according to the exhibit numbers in the application.

OEB staff also advised that parties may wish to propose additional matters for inclusion on the Issues List after the interrogatory responses are received.

Findings

The OEB has reviewed the proposed Issues List as filed by OEB staff on July 27, 2022, and approves it for the purposes of this proceeding.

³ Decision and Order, EB-2017-0373 and EB-2017-0374, August 30, 2018, page 11

Regarding the dispute about the relevance of the forecast used in the MAADs application compared to the actuals over the last five years and the rates applied for, the OEB notes that the sentence relied upon by EPCOR is part of the following paragraph:

The OEB will not require EPCOR to file evidence to demonstrate how the efficiencies expected from the transaction have produced savings in its first Cost of Service Application. The evidence of projected savings in this application support a finding that there is a reasonable expectation that customers will not be harmed in the immediate and long term. The evidence filed in this application will be available to interested parties in a future cost of service application if it is relevant to the rates proposed at that time.⁴

In the MAADs Decision, the OEB observed that OEB staff “submitted that EPCOR should be required to demonstrate, at the time it files a Cost of Service application, how the efficiencies expected from the proposed transaction have resulted in lower costs to serve Collus LDC customers relative to the status quo.” The OEB did not require EPCOR to file the subject evidence as part of the current application, and EPCOR did not do so. However, the OEB does not consider this finding in the MAADs Decision to have precluded parties in the current rates case from asking about the forecast savings in the MAADs proceeding and how they compare to actual savings. On the contrary, the MAADs Decision explicitly contemplated that the MAADs evidence would be available to parties in a future cost of service application if it is relevant to the rates proposed at that time. The OEB is not making a determination here as to the impact of those comparisons on any revenue requirement and rates ultimately approved in the current rates case, but the OEB considers questions around the previous forecasts and the actual results to be relevant to, and within the scope of, this proceeding.

The OEB is of the view that these matters can be explored within the scope of the proposed issues list as it currently reads. The OEB finds that the matters identified by SEC fall within following items in the issues list:

1.1 Capital

Is the level of planned capital expenditures appropriate and is the rationale for planning and pacing choices appropriate and adequately explained, giving due consideration to:

- productivity
- the business plan

⁴ *Ibid.*

1.2 OM&A

Is the level of planned OM&A expenditures appropriate and is the rationale for planning choices appropriate and adequately explained, giving due consideration to:

- productivity
- the business plan

The OEB also approves the request to file interrogatories according to exhibit numbers.

The OEB may update the issues list as necessary to further define the scope of the proceeding.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. The approved Issues List is attached to this Decision as Schedule A.

DATED at Toronto, **July 28, 2022**

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar

SCHEDULE A
APPROVED ISSUES LIST
EPCOR ELECTRICITY DISTRIBUTION ONTARIO INC.
EB-2022-0028
JULY 28, 2022

APPROVED ISSUES LIST
EB-2022-0028
EPCOR Electricity Distribution Ontario Inc.

1.0 PLANNING

1.1 Capital

Is the level of planned capital expenditures appropriate and is the rationale for planning and pacing choices appropriate and adequately explained, giving due consideration to:

- customer feedback and preferences
- productivity
- benchmarking of costs
- reliability and service quality
- impact on distribution rates
- trade-offs with OM&A spending
- government-mandated obligations
- the objectives of EPCOR Electricity Distribution Ontario Inc. and its customers
- the distribution system plan
- the business plan

1.2 OM&A

Is the level of planned OM&A expenditures appropriate and is the rationale for planning choices appropriate and adequately explained, giving due consideration to:

- customer feedback and preferences
- productivity
- benchmarking of costs
- reliability and service quality
- impact on distribution rates
- trade-offs with capital spending
- government-mandated obligations
- the objectives of EPCOR Electricity Distribution Ontario Inc. and its customers
- the distribution system plan
- the business plan

2.0 REVENUE REQUIREMENT

- 2.1 Are all elements of the revenue requirement reasonable, and have they been appropriately determined in accordance with OEB policies and practices?
- 2.2 Has the revenue requirement been accurately determined based on these elements?

3.0 LOAD FORECAST, COST ALLOCATION AND RATE DESIGN

- 3.1 Are the proposed load and customer forecast including the application of Conservation and Demand Management savings, loss factors, and resulting billing determinants appropriate, and to the extent applicable, are they an appropriate reflection of the energy and demand requirements of EPCOR Electricity Distribution Ontario Inc.'s customers?
- 3.2 Are the proposed cost allocation methodology, allocations, and revenue-to-cost ratios, appropriate?
- 3.3 Are EPCOR Electricity Distribution Ontario Inc.'s proposals, including the proposed fixed/variable splits, for rate design appropriate?
- 3.4 Are the proposed Retail Transmission Service Rates and Low Voltage rates appropriate?
- 3.5 Are the Specific Service Charges, Retail Service Charges, and Pole Attachment Charge appropriate?

4.0 ACCOUNTING

- 4.1 Have all impacts of any changes in accounting standards, policies, estimates and adjustments been properly identified and recorded, and is the rate-making treatment of each of these impacts appropriate?
- 4.2 Are EPCOR Electricity Distribution Ontario Inc.'s proposals for deferral and variance accounts, including the balances in the existing accounts and their disposition, requests for discontinuation of accounts, requests for establishment of new accounts and the continuation of existing accounts, appropriate?

5.0 OTHER

- 5.1 Is the proposed effective date (i.e., January 1, 2023) for 2023 rates appropriate?