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

BY EMAIL

October 26, 2022

Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
Registrar@oeb.ca

Dear Ms. Marconi:

Re: Ontario Energy Board (OEB) Staff Submission
Canadian Niagara Power Inc.
2023 Distribution Rate Application
OEB File Number: EB-2022-0019

Please find attached OEB staff's submission in the above referenced proceeding, pursuant to Procedural Order No. 1. Canadian Niagara Power Inc. and all intervenors have been copied on this filing.

Canadian Niagara Power Inc. is reminded that its reply submission is due on November 7, 2022.

Yours truly,

Narisa Jotiban
Digitally signed by Narisa Jotiban
Date: 2022.10.26 16:18:17 -04'00'

Narisa Jotiban
Case Manager

Encl.

cc: All parties in EB-2022-0019

ONTARIO ENERGY BOARD

OEB Staff Submission

Canadian Niagara Power Inc.

2023 Distribution Rate Application

EB-2022-0019

October 26, 2022

Introduction

Canadian Niagara Power Inc. (CNPI) filed an incentive rate-setting mechanism (IRM) application with the Ontario Energy Board (OEB) on August 3, 2022, under section 78 of the *Ontario Energy Board Act, 1998* seeking approval for changes to its electricity distribution rates to be effective January 1, 2023.

Consistent with the Chapter 3 Filing Requirements[1], CNPI 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 CNPI's proposed price cap adjustment, although OEB staff notes that the 2022 inflation parameters have been applied as a placeholder, pending the OEB's issuance of the 2023 parameters. OEB staff will update the 2023 Rate Generator Model to reflect the 2023 price cap parameters pursuant to the process that the OEB may lay out for implementation once available.

CNPI 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 distributor, Hydro One Networks Inc. (Hydro One). OEB staff has no concerns with CNPI's requested adjustments to its RTSRs, although OEB staff notes that the approved interim 2022 Uniform Transmission Rates (UTRs) and approved Hydro One sub-transmission rates have been applied as a placeholder, pending the approval of 2023 UTR and Hydro One sub-transmission rates[2].

In this document, OEB staff makes detailed submissions on the following:

- Group 1 Deferral and Variance Accounts (DVAs)
- Lost Revenue Adjustment Mechanism Variance Account (LRAMVA)
- Z-factor claim – December 2021 Windstorm

Group 1 Deferral and Variance Accounts

CNPI requested disposition of its December 31, 2021 Group 1 DVA balances in the debit amount of $676,117 on a final basis over 12 months. This includes interest projected to December 31, 2022. 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 the disposition of CNPI's Group 1 account balances on a final basis, as of December 31, 2020, as part of its 2022 cost of service proceeding.

[1] Filing Requirements for Electricity Distribution Rate Applications - 2022 Edition for 2023 Rate Applications - Chapter 3 Incentive Rate-Setting Applications, May 24, 2022.
[2] Manager's Summary, p. 7. If the OEB approves an update to the 2022 OEB-approved interim UTRs, issues new 2023 UTRs, or issues new 2023 Hydro One sub-transmission RTSRs prior to the Decision and Order for CNPI's 2023 rates, OEB staff will update CNPI's Rate Generator Model accordingly.

Table 1: Group 1 DVA Balances

Account Name	Account Number	Principal Balance ($)	Interest Balance ($)	Total Claim ($)
		A	B	C = A + B
LV Variance Account	1550	30,514	547	31,061
Smart Metering Entity Charge	1551	(15,499)	(244)	(15,743)
RSVA - Wholesale Market Service Charge	1580	312,827	5,655	318,482
Variance WMS – Sub-account CBR Class B	1580	(31,556)	(885)	(32,441)
RSVA - Retail Transmission Network Charge	1584	660,465	11,227	671,692
RSVA - Retail Transmission Connection Charge	1586	16,514	(392)	16,122
RSVA - Power	1588	(252,128)	(4,532)	(256,660)
RSVA - Global Adjustment	1589	(41,134)	(1,882)	(43,016)
Disposition and Recovery/Refund of Regulatory Balances (2019)	1595	9,563	(22,943)	(13,380)
Totals for all Group 1 accounts excluding RSVA – Global Adjustment		730,700	(11,567)	719,133
Totals for all Group 1 accounts		689,566	(13,449)	676,117

OEB Staff Submission

OEB staff supports CNPI's request to dispose of its December 31, 2021 Group 1 DVAs on a final basis. OEB staff has reviewed the 2021 DVA balances and the supporting evidence substantiating these balances. In OEB staff's opinion, the Group 1 DVA balances appear reasonable.

Correction Relating to Account 1588 and Account 1589 in 2021

In its application, CNPI noted that there was a correction of $261,703 to Account 1589 in 2021 for the Global Adjustment (GA) component of the Regulated Price Plan (RPP) settlement. CNPI also stated that the correcting entry was a debit to Account 1589 and there is no impact on Account 1588 because the difference is due back to the IESO through RPP settlements.[3]

[3] Manager's Summary, pp. 11-12

In its interrogatory response, CNPI confirmed that although the error flowed through Account 1588, it did not affect the final balance. The error resulted in an understatement of Account 1589 and an overstatement of the GA purchases for RPP customers, which was settled with the IESO through RPP settlements. Therefore, this affected IESO settlement claims and not the Account 1588 balance. CNPI also indicated its actions to correct settlements with the IESO in the amount of $262K owing to the IESO and record the resultant debit in Account 1589. [4]

OEB staff has reviewed CNPI's response and has no concerns with the correction.

Total Claim Amounts in Accounts 1580 and 1584

In its response to interrogatories, CNPI explained that the main driver for the increase in the 2021 variance in Account 1580 is the substantial increase of $602K in the Wholesale Market Service Charges billed by the IESO. For Account 1584, CNPI indicated that the large increase of $476K in the 2021 variance in the account is mainly due to the actual cost of wholesale purchases from the IESO through UTRs (due to the price differential between actual vs forecast UTRs).[5]

OEB staff finds CNPI's explanations to be reasonable and does not take issue with the proposed total disposition of Accounts 1580 and 1584.

Lost Revenue Adjustment Mechanism Variance Account

Distributors filing an application for 2023 rates are required to seek disposition of all outstanding LRAMVA balances related to program savings related to Conservation First Framework programs or other conservation programs they delivered unless they do not have complete information on eligible program savings.[6] CNPI is not requesting the disposition of any LRAMVA balances related to these activities, and did not request the ability to do so in a future proceeding since it disposed of its 2020 LRAMVA balances in its 2022 cost of service application.

OEB Staff Submission

OEB staff recommends that no further entries to the LRAMVA be permitted at this time, but that the LRAMVA not be discontinued, in the event that CNPI requests the use of the LRAMVA for a CDM activity in a future application, which the OEB can consider on a case-by-case basis. OEB staff is recommending this approach for all distributors who have disposed of all outstanding LRAMVA balances as part of their 2023 rate applications.

[4] OEB Staff IR-6
[5] OEB Staff IR-1
[6] Filing Requirements for Electricity Distribution Rate Applications – 2022 Edition for 2023 Rate Applications – Chapter 3 Incentive Rate-Setting Applications, May 24, 2022

Z-Factor Claim

On December 11, 2021, a windstorm occurred in CNPI's service area resulting in severe damage to the distribution system. CNPI indicated that 22,109 customers were impacted by the storm, and that it was able to restore power to 90% of the affected customers within 20 hours of the interruption. To aid in restoring power, CNPI relied on support through a mutual assistance agreement with Welland Hydro and engaged several third-party contractors.[7]

In this application, CNPI seeks recovery of $148,987, which consists of incremental OM&A costs, interest, and revenue requirement associated with capital expenditures.[8] CNPI is requesting that the amount be allocated across all rate classes, in proportion to its last OEB-approved revenue requirement by rate classes, and recovered through fixed rate riders based on the most recently reported actual customer counts. CNPI proposed a disposition period of 12 months beginning January 1, 2023 and ending December 31, 2023.

A detailed breakdown of the capital and OM&A costs from the windstorm is shown in table 2 below[9]:

Table 2: Total Storm Cost Breakdown

Cost Category	Capital ($)	OM & A (Regular-Time Labour) ($)	OM & A (Recorded in Account 1572) ($)	Total Cost ($)
CNPI Labour (Regular)	100,460	53,962	-	154,422
CNPI Labour (Overtime)	63,916	1,653	64,851	130,419
Materials	60,995	-	-	60,995
LDC Mutual Aid Costs	9,421	-	-	9,421
Contracted Services - Line Services	28,895	-	70,058	98,954
Contracted Services - Excavation and Tree Removal	20,153	-	-	20,153
Other	68	-	978	1,046
Total	283,907	55,615	135,887	475,409
Amount Associated with Z-Factor Claim	**183,447** [10]	-	**135,887**	-

[7] Manager's Summary, p. 15 and Schedule F, p. 1
[8] This is the adjusted amount from CNPI's interrogatory response (preamble section). In its application, as originally filed, CNPI had requested recovery in the amount of $157,900.
[9] OEB Staff IR-7a
[10] The total capital cost excluding CNPI labour (regular). The capital spending of $183,447 is used to derive the revenue requirement associated with capital expenditures shown in Table 3.

A detailed breakdown of the various components of Z-factor claim is set out in table 3 below:

Table 3: Z-Factor Amount Requested for Recovery

Z-Factor Components[11]	**Amount ($)**
OM&A - CNPI Labour (Overtime)	64,851
OM&A - Contracted Services - Line Services	70,058
OM&A - Other	978
OM&A - Interest	1,000
Revenue Requirement Associated with Capital Expenditures[12]	12,100
Total	**148,987**

OEB Staff Submission

Based on CNPI's evidence, OEB staff believes that the costs incurred to respond to the December 11, 2021 windstorm qualify for the Z-factor treatment, in accordance with the OEB's policy and practice.[13] However, OEB staff has concerns with how CNPI categorized some of the contracted services costs as capital (and not OM&A), and the implications of what will be recovered from ratepayers in 2023 and in the long run. OEB staff is identifying these concerns so that the panel may wish to consider them in their deliberations as to whether all claimed cost should be recoverable.

Z-factors provide for funding to cover costs of unforeseen events outside of a distributor's management control.[14] The OEB has previously indicated that for Z-factor treatment to apply, generally, the cost to the distributor must be material and its causation clear.[15]

In order for amounts to be recoverable by way of a Z-factor, the amounts must satisfy the following three eligibility criteria:

- Causation – Amounts should be directly related to the Z-factor event. The amount must be clearly outside of the base upon which rates were derived.

[11] The total OM&A cost component of the Z-factor claim ($135,887), consisted of CNPI labour (overtime), contracted services – line services and other, has been recorded in Account 1572 (Extraordinary Events Costs). The interest amount of $1,000 is calculated based on the balance in this account.
[12] This is the revenue requirement associated with the incremental capital cost from the windstorm ($183,447)
[13] *Handbook of Utility Rate Applications*, October 13, 2016, p. 27, EB-2007-0673, *Supplemental Report of the Board on 3rd Generation Incentive Regulation for Ontario's Electricity Distributors*, September 19, 2008, Appendix B: Amended Filing Guidelines, pp. VII-X
[14] EB-2007-0673, *Report of the Board on 3rd Generation Incentive Regulation for Ontario's Electricity Distributors,* July 14, 2008, p. 34.
[15] *Ibid.*

- Materiality – The amounts must exceed the Board-defined materiality threshold and have a significant influence on the operation of the distributor; otherwise they should be expensed in the normal course and addressed through organizational productivity improvements.

- Prudence – The amounts must have been prudently incurred. This means that the distributor's decision to incur the amounts must represent the most cost-effective option (not necessarily least initial cost) for ratepayers.[16]

Causation

In its application, CNPI has submitted the following information with respect to causation:

- This event was outside CNPI's control. CNPI has not experienced such an extensive amount of weather-related damage to its distribution, since a severe early-season snowstorm in October/November of 2019. The combination of rain and long-lasting wind gusts caused tree failures, pole failures and downed wires to an extent that would not have occurred under normal weather conditions. CNPI could not have reasonably designed and managed its distribution system to avoid all of the damage and outages resulting from the storm.[17]
- In its response to OEB staff interrogatories, CNPI has made adjustments to its Z-factor claim to include only the incremental costs that were directly related to repairs made to CNPI's distribution system and restoration of service as a result of the December 11, 2021 windstorm.[18]
- CNPI has provided a breakdown of incremental capital and labour costs.[19]
- In its response to OEB staff interrogatories, CNPI is requesting a revenue requirement associated with the incremental capital spending on replacement assets incurred directly from the storm damage only for the 2023 rate year. CNPI indicated that it is not requesting the ongoing capital funding until its next rebasing (expected in 2027) due to the materiality of the capital amount on its own, including the impact of rate rounding on the recovery of the amount.[20]
- CNPI indicated the requirement to replace 36 poles during restoration efforts and confirmed that the pole replacement cost due to the storm is excluded from its actual and budgeted amounts for capital spending on System Renewal in 2021.[21]
- The storm costs are supported by invoicing from Welland Hydro and third-party

[16] *Report of the Board on 3rd Generation Incentive Regulation for Ontario's Electricity Distributors,* July 14, 2008, p. 25.
[17] Manager's Summary, pp. 13-16 and Schedule F
[18] OEB Staff IR, pp. 1-3 and OEB Staff IR-7b and c
[19] OEB Staff IR-7a and 8a
[20] OEB Staff IR-13b and c
[21] OEB Staff IR-12

contractors that assisted with restoration efforts, as well as timesheet and material charges to work orders created to track the costs of this specific storm event.[22]

- Since the last severe windstorm in October/November 2019, CNPI has made efforts to increase investments to mitigate risks associated with extreme weather events.[23] However, due to the infrequent and extreme nature of such events, CNPI has not planned or budgeted for such events,[24] beyond emergency response OM&A as documented in Staff-15.
- In response to OEB staff interrogatories, CNPI provided a table comparing its annual budgeted and actual vegetation management program from 2017 to 2022 year to date shown in table 4 below.[25] CNPI confirmed that the vegetation management costs in 2021 exceeded the level budgeted and included in rates.[26]

Table 4: Vegetation Management Budget versus Actual Expenses ($)[27]

Year	Budget	Actual	Variance
	(A)	(B)	(C = B-A)
2017	480,667	442,527	(38,140)
2018	485,070	478,201	(6,869)
2019	500,039	530,240	30,201
2020	524,085	492,409	(31,676)
2021	509,713	581,800	72,087
2022 YTD (June 30)	272,700	173,975	(98,725)
2017-2021 Total	**2,499,574**	**2,525,177**	**25,603**

- CNPI has confirmed and demonstrated that the capital and OM&A costs included in the Z-factor claim are incremental costs that exceed the levels of emergency response budget underpinning rates. Table 5 below summarizes CNPI's OM&A budgeted in rates vs actual related to emergency response. Column A in Table 5 represents OM&A budget amounts related to emergency response that underpin rates from the rebasing year 2017 to 2021. Column B shows CNPI's actual OM&A spending for non Z-factor and column C shows the actual OM&A spending for Z-factor.

[22] Manager's Summary, p. 15 and OEB Staff IR-9b
[23] OEB Staff IR-15a
[24] Manager's Summary, p. 16
[25] OEB Staff IR-14a
[26] OEB Staff IR-7b
[27] OEB Staff IR-14a

Table 5: OM&A Budget vs Actual Related to Emergency Response Excluding Interest ($)

Year	Budgeted in Rates	Actual Non Z-Factor	Actual Z-Factor	Variance
	(A)	(B)	(C)	(D = B+C-A)
2017	39,977	13,553	-	(26,424)
2018	40,277	89,766	-	49,489
2019	40,700	83,981	285,050	328,331
2020	41,331	18,297	-	(23,034)
2021	42,054	55,615	135,887	149,448
Total	**204,339**	**261,212**	**420,937**	**477,810**

From Table 4, OEB staff notes that although the actual costs for vegetation management exceed the budget in 2021, the overall spending for this category over the current price cap term from 2017 to 2021 is just 1% above the budget. Even with vegetation management expenses incurred in service restoration for the 2019 and 2021 storms, CNPI's actual expenses are within 1% of the budgeted 5-year period. Utilities operating under incentive rate-adjustment mechanisms have some flexibility and are expected to manage their operations and cost management. CNPI has shown years of underspends as well as overspends in vegetation management, and OEB staff questions whether all vegetation management costs incurred in service restoration for the December 11, 2021 storm should be recoverable as part of the Z-factor.

With regards to CNPI's OM&A budgeted in rates vs actual related to emergency response shown in Table 5, CNPI used a similar approach that demonstrated the OM&A budget underpinning its 2019 rates in the 2019 Z-factor claim.[28] OEB staff notes that CNPI has appropriately applied price cap parameters (inflation and stretch factor) to its OM&A budgets related to emergency response in column A, for each of the years following its 2017 rebasing year. In 2021, $42,054 in column A is the OM&A budget for emergency response that underpins 2021 rates and lower than CNPI's actual OM&A spending of $55,615 for non Z-factor (column B). In addition to the OM&A actual spending for non Z-factor in 2021, Table 5 shows that CNPI incurred the OM&A cost of $135,887 for Z-factor in 2021 (column C) which is outside of its OM&A budget underpinning rates.

In CNPI's adjusted Z-factor claim, CNPI has confirmed and shown that only CNPI overtime labour cost, material costs, LDC mutual aid costs, and contracted services costs incurred directly from the windstorm, totaling $183,447 (Table 2), are included as an incremental capital cost.[29] The revenue requirement of $12,100 associated with $183,447 is one of the components of the Z-factor claim (Table 3).

The incremental capital and OM&A costs from the windstorm are supported by CNPI's

[28] EB-2020-0008, CNPI Reply Submission, November 3, 2020
[29] CNPI's response to interrogatories (preamble section)

internal labour costs based on time booked directly to storm restoration work order (broken down by capital and labour) and the breakdown of the invoices by category from Welland Hydro and other third-party contractors that assisted in the restoration effort.[30] OEB staff notes that the breakdown of incremental capital and OM&A costs provided reconcile with the capital and labour cost components of the Z-factor claim.

However, for contracted service costs shown in Table 1, OEB staff is unclear on how CNPI differentiated these costs between capital and OM&A (recorded in Account 1572) based on the breakdown of the third-party contractors' invoices provided in its response to interrogatories.[31] In its response to VECC-2 c), CNPI has described the types of services provided by third-party contractors during service restoration of the December 11, 2021 storm; however, OEB staff is uncertain how CNPI has categorized the costs between operating expenses and capitalized expenses in Table 1 for the categories of Contracted Services - Line Services and Contracted Services – Excavation and Tree Removal.

Since CNPI is requesting to recover the capital related revenue requirement as part of the Z-factor claim in 2023, and also intends to request ongoing recovery of capitalized costs in its next rebasing application (expected in 2027) by adding the assets to opening rate base (for January 1, 2027), it is important that the incremental capital costs have been appropriately categorized to ensure that overcapitalization does not occur. The capital related revenue requirement of the Z-factor claim could have a potential rate impact on its customers in the long run when CNPI begins recovering the capital-related revenue requirement (return of capital, depreciation expense, and associated taxes) with the capitalized amounts of the replaced assets added to the rate base with its next rebasing application. Given that these are long-lived assets, this could be material for CNPI's ratepayers in the long run.

In OEB staff's submission, costs should be capitalized and expensed in the same manner as there would be for normal pole installation and replacement. Thus, work for excavation would be capitalized as it is necessary to make a pole serviceable and "used and useful", while other costs, such as for vegetation management, are expensed.

Overall, OEB staff submits that CNPI has demonstrated that the amounts sought for recovery are directly related to the windstorm and outside of the base upon which CNPI's rates were set. However, OEB staff is uncertain, based on CNPI's evidence filed in the application and in response to interrogatories, whether contracted services costs incurred during the storm restoration have been appropriately categorized as capital or OM&A.

[30] OEB Staff IR-8a, 9b and 9c
[31] OEB Staff IR-9b

Materiality

The OEB has previously indicated that the materiality threshold for a Z-factor claim is 0.5% of the distribution revenue requirement for a distributor with a distribution revenue requirement greater than $10 million and less than or equal to $200 million.[32]

CNPI has an approved revenue requirement of $21,388,669 from its 2017 cost of service proceeding, which results in a materiality threshold of $106,943. The amount of CNPI applied for Z-factor claim is above that threshold and, therefore, considered material. OEB staff notes that this may change depending on the OEB's determinations with respect to the concerns expressed by OEB staff in this submission on appropriate categorization of the cost claims.

Prudence

In its application, CNPI has provided the following comments with respect to prudence[33]:

- CNPI deployed all available crews and obtained assistance from its neighbouring LDC (Welland Hydro) and third-party contractors to repair damage and restore power to its customers as quickly and safely as possible within a reasonable period.
- CNPI deployed all available internal resources to the restoration effort and issued the vast majority of required materials directly from stores to minimize premiums for emergency purchases and expedited delivery.
- CNPI secured the services of Welland Hydro through pre-existing mutual aid agreement. Other contractors that assisted with the restoration effort had existing contractual relationships with CNPI, and as such provided services at pre-determined hourly rates. [34]
- CNPI has followed a Business Continuity Plan (designed to assist in the response to natural disasters, major outages, municipal emergencies, etc.)[35]

In summary, based on its review of the evidence, OEB staff submits that the criteria of causation, materiality and prudence are met. OEB staff has concerns with how CNPI categorized some of the contracted services costs as capital, not OM&A and is of view

[32] *Report of the Board on 3rd Generation Incentive Regulation for Ontario's Electricity Distributors,* July 14, 2008, p. 36.
[33] Manager's Summary, p. 17 and Schedule F
[34] In its interrogatory response to OEB Staff IR-9c, the invoicing arrangements with Welland Hydro are based essentially pass-through costing, and do not include a premium. However, in some cases the invoices from non-LDC support vendors indicate a premium rate may have been charged. CNPI explained that the payment of premiums for emergency work outside of regular hours is a typical practice applied by many vendors. CNPI believes that it is reasonable to incur some level of increased cost to compensate the vendor and its employees for the added complexity and inconvenience during emergency. By refusing to compensate vendors for these considerations may result in a much longer and more difficult outage response.
[35] OEB Staff IR-11a

that it may assist the OEB panel if CNPI provided further explanation in its reply submission on the concerns identified by OEB staff. OEB staff further acknowledges that CNPI is requesting the revenue requirement associated with the incremental capital spending only for the 2023 rate year and not annually until its next rebasing application which is expected in 2027.

Allocation and Rate Design

In its application, CNPI states that consistent with the OEB's Decision on Burlington Hydro Inc.'s prior Z-factor claim for its 2019 rates[36], CNPI has allocated the costs associated with the windstorm to all rate classes, on the basis of its last approved distribution revenue requirement from its 2017 cost of service. CNPI is requesting that the total Z-factor amount of $148,987 be recovered through fixed rate riders, over a 12-month period.[37] CNPI is proposing to use the number of customers as of December 31, 2021, as submitted in its 2021 Record-keeping and Reporting Requirements (RRR) filing, as the billing determinant to calculate rate riders to reduce the likelihood of over-recovering the Z-factor claim.

Consistent with the OEB's Decision on CNPI's prior Z-factor claim for its 2021 rates[38], OEB staff submits that CNPI's proposal to allocate the costs associated with the windstorm on the basis of distribution revenue and the 2021 filed customer numbers in the RRR filings as the billing determinant is reasonable, as is its request for a 12-month recovery period.

~All of which is respectfully submitted~

[36] EB-2018-0021, Decision and Order, March 28, 2019, pp. 13-14
[37] The allocated Z-factor claim amounts and rate riders by rate class have been adjusted, following CNPI's interrogatory response (preamble section).
[38] EB-2020-0008, Decision and Order, December 19, 2020, Corrected December 17, 2020, pp. 17-18