CANADIAN NIAGARA POWER INC.
A FORTIS ONTARIO Company

November 7, 2022

Ms. Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street, 27th floor
Toronto, ON M4P 1E4

Dear Ms. Marconi:

Re: EB-2022-0019 Canadian Niagara Power Inc. 2023 IRM Application
CNPI Reply Submission

In accordance with Procedural Order #1, please find attached CNPI's reply to submissions from OEB Staff and Vulnerable Energy Consumers Coalition ("VECC").

Copies of the attached reply submission have also been provided to VECC, Hydro One Networks Inc. and Small Business Utility Alliance representatives, as well as OEB Staff.

Please direct any questions or concerns to the undersigned.

Sincerely,

Oana Stefan
Digitally signed by Oana Stefan
Date: 2022.11.07 15:36:34 -05'00'

Oana Stefan
Manager, Regulatory Affairs
Phone: 905.871.0330 Ext.3271
RegulatoryAffairs@FortisOntario.com

Encl.

cc: Shelley Grice, John Lawford (VECC)
Carla Molina (Hydro One)
Myriam Seers, Ryan Pistorius, Sebastian Melo, James Birkelund (SBUA)
Narisa Jotiban, Lawren Murray (OEB Staff)

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, C. S.O. 1998, c.15 (Sched. B);

AND IN THE MATTER OF an Application by Canadian Niagara Power Inc. for an Order or Orders pursuant to Section 78 of the *Ontario Energy Board Act, 1998* approving or fixing just and reasonable rates and other service charges for the distribution of electricity.

REPLY SUBMISSION

CANADIAN NIAGARA POWER INC.

EB-2022-0019

NOVEMBER 7, 2022

A. 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 rates to be effective January 1, 2023 (the "Application"). In its Procedural Order No. 2, the OEB approved Hydro One Networks Inc. ("Hydro One"), Small Business Utility Alliance ("SBUA"), and Vulnerable Energy Consumers Coalition ("VECC") as intervenors (collectively, the "intervenors") in the case.

In accordance with Procedural Order No. 1, OEB Staff and VECC filed their submissions on October 26, 2022. HONI and SBUA did not make any submissions. VECC made submissions only regarding CNPI's Z Factor claim related to a December 11, 2021 wind storm. OEB Staff made submissions on:

a. Group 1 Deferral and Variance Accounts ("DVAs")
b. Lost Revenue Adjustment Mechanism Variance Account ("LRAMVA"); and
c. Z-Factor claim.

CNPI is providing reply submissions on the following issues:

a. IRM Adjustment
b. Group 1 Deferral and Variance Accounts ("DVAs")
c. Lost Revenue Adjustment Mechanism Variance Account ("LRAMVA"); and
d. Z-Factor claim.
    i. Causation
    ii. Materiality
    iii. Prudence
    iv. Cost Allocation and Rate Design

B. CNPI's REPLY SUBMISSIONS- IRM APPLICATION

a. IRM Adjustment

CNPI submitted its application with a placeholder price cap adjustment of 2.85%, acknowledging that OEB staff would update the 2023 IRM model to reflect the 2023 price cap parameters once available.[1] The applicable 2023 rate setting parameters are now available; the OEB has issued the inflation rate of 3.7% applicable to electricity distributors[2]. Additionally, the Stretch Factor assignment of 0.45% for CNPI was issued July 18, 2022[3]. On November 3, the OEB issued its Decision and Order in EB-2022-0220 setting the Energy Retailer Service Charges to be applied effective January 1, 2023, as well as the Decision and Order in EB-2022-0221 setting the Distribution Pole Attachment charge for 2023.

In its submissions, OEB Staff noted its expectation that OEB Staff will update the rate generator model to reflect the updated inflation factor.

CNPI Submissions

CNPI notes that neither OEB Staff nor any intervenor made direct submissions on the Price Cap IR adjustment proposal. CNPI submits that the Price Cap IR adjustment of 3.25% should be applied to the January 1, 2023 distribution rates. CNPI further requests that OEB Staff make the updates related to the Retail Service Charges and Pole Attachment Decisions for 2023 rates.

b. Group 1 DVAs

In its Application, CNPI proposed the disposition of its Group 1 DVAs as at December 31, 2021 with forecasted interest to December 31, 2022. The total disposition of $676,117 proposed for disposition exceeds the materiality threshold as calculated in the OEB's rate generator model[4]. CNPI proposed a disposition period of one year and followed the methodology in the rate generator model to calculate the proposed rate riders. CNPI's Account 1589 RSVA-Global Adjustment and Account 1588-RSVA Power were reconciled within the tolerance levels required by the OEB. CNPI identified an adjustment related to Account 1589 and RPP Settlements, which was identified and proposed to be corrected in 2022 but relates to 2021. The adjustment does not impact any balances which were previously approved for disposition (on a final basis or otherwise). CNPI notes it has not yet completed the correction of the RPP settlement with the IESO, pending the outcome of this Application.

---

[1] Page 6 of CNPI Application and Evidence, EB-2022-0019, August 3, 2022
[2] OEB Letter "2023 Inflation Parameters" dated October 20, 2022
[3] Pacific Economics Group Report to the Ontario Energy Board -Empirical Research in Support of Incentive Rate-Setting: 2021 Benchmarking Update July 18, 2022, p. 23
[4] Application and Evidence, p9

In its submissions, OEB Staff supported CNPI's request to dispose of the Group 1 DVAs on a final basis. OEB Staff submitted that it had no concerns with the correction proposed to Account 1589 and RPP Settlements. Furthermore, OEB staff found the explanations for the balances in accounts 1580 and 1584, provided as interrogatory responses, to be reasonable.

The intervenors did not make any submissions with respect to DVA balances.

CNPI Reply Submissions

CNPI submits that the OEB should approve the final disposition Group 1 DVA Balances as at December 31, 2021, with forecasted interest to December 31 ,2022. The balances in the accounts are reasonable, and have been reconciled within the appropriate limits, where required. The OEB should approve CNPI's proposal to dispose the balances through rate riders applicable for one year.

c. LRAMVA

In its Application, CNPI noted that its LRAMVA account as of December 31, 2020 was disposed in its 2022 cost of service application, and did not bring forward any disposition for review in the current proceeding.

OEB Staff recommended that no further entries be permitted into the LRAMVA at this time. OEB Staff recommended that the LRAMVA not be discontinued in the event that CNPI requests the use of the LRAMVA for any new CDM activity in the future.

No intervenors made submission on the LRAMVA.

CNPI Reply Submissions

CNPI last disposed of LRAMVA balances until the end of 2020. Effective January 1, 2022, new rates came into effect which reflect an updated load forecast that incorporates updated CDM assumptions, presumably inclusive of expected CFF Impacts. Accordingly, the only outstanding clearance in CNPI's LRAMVA relates to the year 2021.

CNPI respectfully requests that the OEB permit further entries into the LRAMVA account related to the year 2021, to be reviewed in the next CNPI IRM application (expected for January 1, 2024 rates).

In preparing for the initial Application, CNPI erroneously estimated an LRAMVA balance of $4,000 related to 2021 CDM activities, which led to the decision not to bring forward the 2021 LRAMVA amounts for disposition. Since that time, CNPI has re-assessed the expected LRAMVA related to 2021 and expects a larger balance similar to the disposition for 2020 of $54,000, though this amount has not yet been confirmed. As a result, CNPI respectfully proposes to keep the account open for entries, deferring the disposition of the 2021 amount for one year. In view of the anticipated one-year delay in disposition, CNPI proposes to forego any additional interest adjustments associated with the delay of the disposition from 2023 to 2024. By doing so, CNPI respectfully submits, there will be no monetary impact to customers as a result of CNPI's proposal to defer the disposition of its 2021 LRAMVA amounts to its 2024 IRM proceeding.

d. Z-Factor Claim

In its Application and Evidence, CNPI submitted a Z-Factor claim for costs to restore power during a windstorm that occurred on December 11, 2021. In its interrogatory responses, CNPI updated its claim to $148,987. CNPI has proposed to recover the claim amount through fixed monthly rate riders applicable for 12 months, to be allocated among its rate classes in proportion to the last OEB-approved revenue requirement.

CNPI's claim consists of a capital and OM&A component. Both components are only claimed for a one-year disposition, though CNPI will continue to incur "unfunded" costs related to the capital component for several years until its next rebasing.

CNPI has organized its reply submissions to align with the OEB's Z Factor criteria of Causation, Materiality and Prudence below, with an additional section for Cost Allocation and Rate Design, which was a topic in both the OEB Staff and VECC submissions. Generally speaking, however, CNPI notes that both OEB Staff and VECC accepted that CNPI has met the requisite Causation, Materiality, and Prudence requirements of the Z-Factor Claim, and both OEB Staff and VECC supported CNPI's proposed allocation and rate proposal for the recovery of the Z-Factor amounts from customers. Accordingly, CNPI respectfully requests that the OEB approve its updated Z-Factor claim of $148,987, including CNPI's proposed recovery of those costs.

i. Causation

OEB Staff submitted that the costs incurred by CNPI qualify for Z-factor treatment in accordance with the OEB's policy. OEB Staff submitted that CNPI demonstrated that it met the requirements for Causation, noting that CNPI could not have reasonably designed and managed its distribution system to avoid all of the damage and outages resulting from the storm. OEB staff noted the adjustments made by CNPI to include only the costs associated with the December 11 windstorm, including only its own incremental overtime labour costs and incremental 3rd party costs. Further, OEB Staff referenced the fact that the Z-Factor amounts exceeded the amounts budgeted and underpinning rates related to storm recovery capital and OM&A. OEB Staff also acknowledged the storm damage risk assessment and mitigation efforts undertaken by CNPI.

OEB Staff produced Table 4, which compares CNPI's budgeted and actual Vegetation Management costs from 2017 until June 30 "YTD" 2022. The table indicates CNPI has sometimes overspent and sometime underspent its vegetation management budget, and over the 2017-2021 period, vegetation management budget was only exceeded by 1%. OEB Staff questioned whether all vegetation management costs incurred in the service restoration for the storm should be recoverable. Nonetheless, ultimately OEB Staff submitted that CNPI demonstrated that the amount sought for recovery were directly related to the windstorm and outside the base upon which CNPI's rates were set.

OEB Staff also noted concerns with the categorization of contracted services into Capital (and not OM&A). OEB staff noted that capital costs will be recovered from ratepayers “in the long run”. OEB Staff invited CNPI to clarify the approach to capitalization of the third-party costs.

VECC also submitted that CNPI met the requirements related to Causation, referencing CNPI’s claim updates, and the fact that the storm costs exceeded the emergency response budgets.

VECC noted that CNPI underspent its vegetation management budget in 2017, 2018 and 2020, and that CNPI did not provide details on the annual accomplishments related to tree trimming.

VECC further submitted that further assurance is needed that CNPI is updating its risk assessment and risk management for extreme weather damage.

CNPI Reply Submissions

In response to the OEB staff’s question whether all vegetation management costs incurred in the service restoration should be recoverable through the Z Factor, CNPI submits that none of the costs included in the “actuals” column of Table 4 of OEB Staff’s Submissions form a part of the Z-Factor claim. None of the 2021 actual vegetation management costs of $581k are included in the Z factor claim, as claim amounts were recorded in separate internal Orders. On this basis, CNPI submits that the spending vs. budget for vegetation management is not relevant to determining what level of the Z factor claim is incremental to the basis upon which rates were set. Nonetheless, Table 4 confirms that CNPI has materially met its budget for vegetation management, demonstrating prudent actions to mitigate risk associated with extreme weather.

With respect to its approach to capitalization of some of the storm damage costs, CNPI has followed its typical cost categorization processes. The invoices from third party contractors were allocated among capital and OM&A orders, depending on the nature of the work completed. CNPI notes that among the third-party invoices included in the Z factor claim, some were allocated among both capital and OM&A, while others were either fully expensed or capitalized. CNPI is unclear what has led OEB Staff to suspect that CNPI has departed from its typical accounting practices.

In its response to Staff-7, CNPI provided a breakdown of third-party costs, allocated among the categories “Mutual Aid, Contracted Service- Line Services and Contracted Services- Excavation and Tree Removal”. In providing its response, CNPI noted that some assumptions were made in order to categorize the vendors’ invoices between the Contracted Services sub-categories. CNPI notes it did not capitalize the entirety of the third-party costs, as shown in the tables below. Rather, CNPI applied its typical approach in determining what level of costs was related to bringing constructed assets to their intended use.

Item	Total	Capital	O&M		Capitalized %	Expensed %
Mutual Aid	**$ 9,421**	$ 9,421	$ -		100%	0%
Contracted Service- Line Services	**$ 98,954**	$28,895	$ 70,058		29%	71%
Contracted Services- Excavation and Tree Removal	**$ 20,153**	$20,153	$ -		100%	0%
Total	**$ 128,527**	**$58,469**	**$ 70,058**		**45%**	**55%**

For an alternative view, please see the table below which summarizes the categorized invoiced amounts to capital vs. OM&A by vendor.

Vendor	Total Billings	Billings to Capital	Billings to OM&A	% to Capital	% to OM&A
GAMS	$ 84,204	$ 24,145	$ 60,058	29%	71%
Peters Excavating	$ 20,153	$ 20,153	$ -	100%	0%
Pineridge	$ 14,750	$ 4,750	$ 10,000	32%	68%
Welland Hydro	$ 9,421	$ 9,421	$ -	100%	0%
Total	**$ 128,527**	**$ 58,469**	**$ 70,058**	**45%**	**55%**

Examples of the work capitalized would include excavation of "pole holes", tree removal and trimming required for the *construction* of poles, and installation of new poles and anchors. The activities expensed included work to complete repairs to wires, insulators and service lines, and tree trimming and removal to *repair* damaged wires.

CNPI also notes that third party costs were primarily incurred in the year 2021, and as such form part of the audited financial statements which were approved by CNPI's auditors.

With respect to VECC's comments regarding the assessment of vegetation management accomplishments, CNPI notes that it does not track vegetation management on a per-unit basis. CNPI's annual tree trimming program requires the assessment and completion of one-third of the service territory on an annual basis.[5] CNPI's Integrated Vegetation Management Program(IVMP) was developed to be aligned with:

- CNPI's Health Safety and Environmental Management System;
- ISO 14001 Standard;
- OHSA 18001 Standard;
- North American Electric Reliability Corporation Compliance Program;
- American Standards Institute A3000- Standard Practices for Trees, Shrubs and other Woody Plan Maintenance; and
- Electrical Safety Authority Guidelines for Tree Trimming Around Power Lines and Planting Under or Around Power Lines and Electrical Equipment.[6]

[5] CNPI Response to Staff-14.
[6] See Exhibit 2 of EB-2021-0011, dated June 30, 2021, Pg. 229

CNPI has met this its IVMP targets in the period reviewed[7]. The areas of three system included in each of the three zones are outlined in CNPI's most recent COS[8]. CNPI notes that it originally proposed to increase vegetation management activity in its 2022 COS, however in response to customer feedback, Vegetation Management spending for the 2022-2027 cycle was reduced compared to the level originally proposed to customers (to a level that still exceeded prior budgets)[9]. CNPI expects to meet its 2022 targets for vegetation management.

CNPI notes it has been materially within budget in the 2017-2021 term with total spending within 1% of the total budget, as outlined in Table 4 included with OEB Staff's submission. CNPI agrees with OEB Staff's exclusion of the 2022 YTD figures from its submissions[10]. CNPI notes that the 2022 YTD spending is not necessarily reflective of forecasted full-year activity. Specifically, CNPI is forecasting that it will meet its tree trimming budget for 2022.

With respect to VECC's comments on risk assessment and risk mitigation related to storm damage, CNPI notes the following measures aimed at mitigating risks:

- Accelerated voltage conversion projects;
- Accelerated distribution automation;
- Exploring changes to design criteria and standards to enable storm hardening and system redundancy, for example:
  - Considering use of underground cable where practical;
  - Adjusting relative mechanical strength properties between wood poles
- Focusing efforts in in areas of higher likelihood of storm damage.[11]

Additionally, CNPI has increased its vegetation management program (though not to the extent originally contemplated, in response to customer feedback). As outlined above, the vegetation management program aligns with various industry standards. Further, CNPI's vegetation management program incorporates a focus on areas associated with higher outages, as well as incorporating off-cycle branch tree trimming in areas with faster-than-typical growth[12].

CNPI notes that storm-hardening and other measures can be long term and costly investments and CNPI must balance customer affordability in considering the pace and magnitude of the investments. At an extreme, a focus solely on accelerated storm hardening could have significant cost impacts to customers because of early asset retirements and the incremental cost beyond typical like-for-like replacements (for example in the case of replacement of overhead with underground systems). CNPI submits its approach is appropriate in consideration of customer affordability and the desire to align storm hardening measures with end of life asset replacements (thus minimizing early asset retirements).

---

[7] See response to VECC-4 in EB-2022-0019.
[8] See Exhibit 2 of EB-2021-0011, dated June30, 2021. Pg 436 (Fort Erie) and 437 (Port Colborne)
[9] DSP p19-20
[10] EB-2022-0019, OEB Staff Submission dated October 26. Pg.10: In assessing CNPI's spending for vegetation management, OEB Staff have reviewed only the period 2017-2021, excluding 2022 YTD figures also provided in response to Staff-14 a.
[11] CNPI Response to Staff-15
[12] CNPI Response to Staff14

Lastly, VECC refers to the fact that CNPI has had two Z factor claims in three years. CNPI acknowledges that there are actions within its control that can reduce the frequency and duration of outages related to extreme weather and CNPI has outlined the actions it has taken to address these risks; however, there are also significant elements that are outside of CNPI's control, including some geographic factors specific to CNPI's service territory that result in more frequent extreme weather events[13].

CNPI submits that the costs included in the Z Factor claim meet the criteria of causation. The costs were directly related to the December 11, 2021 wind storm, and incremental to the basis upon which rates were set. CNPI has demonstrated that the costs claimed exceed the levels of storm recovery budgets underpinning rates. CNPI has adjusted its claim to include only the costs directly related to the December 11, 2021 event, and only the labour cost associated with overtime labour.

ii. Materiality

In its application, CNPI calculated a materiality threshold of $106,943, based on 0.5% of its 2017 revenue requirement, representing the revenue requirement underpinning 2021 rates, the year in which the wind storm occurred. CNPI's Z factor claim of $148,987 exceeds this materiality threshold.

OEB Staff submitted that the Z-Factor claim is above the materiality threshold and therefore considered material, noting that his could change depending on the OEB's determination with respect to cost categorization.

VECC's submission concurred with CNPI's determination that the Z-Factor claim exceeds the materiality threshold.

CNPI Reply Submissions

CNPI submits that the amount claimed exceeds the materiality threshold.

In response to OEB Staff's concern regarding the categorization of some costs as capital (as it relates to the issue of materiality), CNPI notes that any re-classification of third party costs from capital to OM&A would further increase the Z-factor amount (which already exceeds the threshold), and therefore will not change whether the claim exceeds the threshold. Costs allocated as capital in this claim impact the revenue requirement at a rate of roughly $0.07 for every $1, however costs classified as OM&A have a $1 to $1 impact.

iii. Prudence

OEB Staff noted that CNPI called upon available internal and external resources to address the storm outages. OEB Staff referenced CNPI's existing Business Continuity Plan and Mutual Aid Agreements. OEB Staff assessed the CNPI acted promptly and restored power within a reasonable period. OEB Staff again noted its concern regarding the method for categorizing contractor costs as capital.

---

[13] See description provided in Exhibit 1 of EB-2021-0011, dated June 30, 2021, which outlines CNPI's susceptibility to severe lake-effect winds and precipitation.

VECC submitted that CNPI acted promptly to restore power and noted that the invoicing arrangements with Welland Hydro are based on pass through costing. VECC did not take issue with the contractor support for power restoration or the costing agreements; VECC did submit, however, that CNPI should know definitely whether a premium was paid.

Both OEB Staff and VECC submitted that the overall criterion of prudence was met.

CNPI Reply Submissions

With respect to OEB Staff's concerns regarding the capitalization of contractor costs, CNPI has clarified the approach in the section above and submits this approach is reasonable.

With respect to VECC's concerns that CNPI should be aware whether a premium was paid, CNPI clarifies that it is aware where a higher rate has been charged for emergency (after hours) work, if this is the intended meaning of "premium". CNPI is not aware of the underlying costing associated with the premium pricing, however CNPI submits this is not unusual for a third-party commercial transaction, nor is it inappropriate.

CNPI agrees with the submissions of OEB Staff and VECC that the criterion of Prudence has been met. CNPI has demonstrated that it has prepared for extreme weather events by having mutual aid arrangements and emergency plans and procedures in place. During the event, CNPI managed its internal and external available resources responsibly to restore power quickly in a safe and cost-effective manner. CNPI respectfully submits that it takes appropriate measures to mitigate the risks of extreme weather outages.

iv. Allocation and Rate Design

CNPI has proposed a disposition of the Z factor claim on the basis of fixed monthly rate riders to all customer classes. The Z factor costs have been allocated consistent with the allocation of revenue requirement from CNPI's most recent COS rate application. CNPI has applied the most recently available year-end customer statistics to mitigate the potential for under- or over-collection of rate rider revenues. The approach has been previously approved by the OEB in at least two instances.

Both OEB Staff and VECC supported CNPI's proposals for allocation and rate design.

CNPI Reply Submissions

CNPI submits that the rate design and cost allocation proposals are appropriate.

--All of which is respectfully submitted --