

ONTARIO ENERGY BOARD

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

AND IN THE MATTER OF an application by EPCOR
Electricity Distribution Ontario Inc. for an order approving just and
reasonable rates and other charges for electricity distribution
beginning October 1, 2023.

EB-2022-0028

**EPCOR ELECTRICITY DISTRIBUTION ONTARIO INC.
SETTLEMENT PROPOSAL**

December 9, 2022

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LIVE EXCEL MODELS

In addition to the Appendices listed above, the following live excel models have been filed together with and form an integral part of this Settlement Proposal:

EEDO_2023 Chapter 2 Appendices_20221209
EEDO_2023 Revenue Requirement Workform_20221209
EEDO_2023 Cost Allocation Model_20221209
EEDO_2023 Tariff Schedule & Bill Impact Model_20221209
EEDO_2023 DVA_Continuity_Schedule_20221209

A. BACKGROUND

EPCOR Electricity Distribution Ontario Inc. (“EPCOR”) filed a Cost of Service application with the Ontario Energy Board (“OEB”) on May 27, 2022 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B) (the “Act”), and is seeking approval for changes to the rates that EPCOR charges for electricity distribution and other charges, to be effective October 1, 2023 (OEB Docket Number EB-2022-0028) (the “Application”).

The OEB issued and published a Notice of Hearing dated June 13, 2022, and issued Procedural Order No. 1 on July 15, 2022, the latter of which, among other things, required the parties to the proceeding to develop a proposed issues list and scheduled a Settlement Conference to take place from September 7-8, 2022 and if needed on September 9, 2022.

On June 29, 2022, OEB Staff sent a set of clarification questions (OEB Staff Clarification Questions) to EPCOR and EPCOR responded on July 12, 2022.

On July 27, 2022, pursuant to Procedural Order No. 1, OEB Staff submitted a proposed issues list and on July 28, 2022, the OEB approved the issues list for the purposes of this proceeding (the “Approved Issues List”).

EPCOR filed its responses to interrogatories with the OEB on August 25, 2022. As part of its Interrogatory Responses, EPCOR updated certain evidence and several spreadsheet models. EPCOR also included a cover letter with a request to modify the effective date of the Application to comply with the terms of the MAAD Decision and Order (EB-2017-0373/0374) wherein the OEB approved a request to defer the rate rebasing of CollusLDC for five years from the date of closing (October 1, 2018) of the share acquisition transactions. EPCOR also indicated that it would be filing additional evidence supporting this amendment.

As a result, on September 9, 2022 the OEB issued a letter stating that the application was to be placed in abeyance pending the submission of additional evidence regarding the effective date. EPCOR submitted the additional evidence on September 14, 2022.

EPCOR responded to additional interrogatories based on the September 14 evidence on October 11, 2022.

A Settlement Conference was convened from November 7-9, 2022 in accordance with the OEB’s *Rules of Practice and Procedure* (the “Rules”) and the OEB’s *Practice Direction on Settlement Conferences* (the “Practice Direction”).

Sarah Daitch of Daitch & Associates acted as facilitator for the Settlement Conference that lasted for three days.

EPCOR and the following intervenors participated in the Settlement Conference:

- School Energy Coalition (SEC);
- Vulnerable Energy Consumers Coalition (VECC); and

- Environmental Defence (ED)

The Small Business Utility Alliance (SBUA) and Environmental Defence (ED), both intervenors in this proceeding, are taking no position on the issues that were settled or partially settled. However, neither SBUA nor ED oppose the position reached by the remaining parties and both will focus their attention on issues still outstanding. EPCOR and the intervenors are collectively referred to as the “Parties”.

OEB staff also participated in the Settlement Conference. The role adopted by OEB staff is set out in the Practice Direction. Although OEB staff is not a party to this Settlement Proposal, as noted in the Practice Direction, the OEB staff participating in the Settlement Conference are bound by the same confidentiality requirements that apply to the Parties in the proceeding.

B. SETTLEMENT PROPOSAL PREAMBLE

This document comprises the Settlement Proposal and is presented jointly to the OEB by the Parties. This document is called a “Settlement Proposal” because it is a proposal by the Parties to the OEB to settle certain issues in this proceeding, identified as settled in this Settlement Proposal. However, as between the Parties, and subject only to the OEB’s approval of this Settlement Proposal, this document is intended to be a legal agreement, creating mutual obligations, and binding and enforceable in accordance with its terms. As set forth later in this Preamble, this Settlement Proposal is subject to a condition subsequent, that if it is not accepted by the OEB in its entirety, then unless amended by the Parties, it is null and void and of no further effect. In entering into this Settlement Proposal, the Parties understand and agree that, pursuant to the Act, the OEB has exclusive jurisdiction with respect to the interpretation and enforcement of the terms hereof.

The Parties acknowledge that the Settlement Conference, including any settlement information related thereto, is privileged and confidential in accordance with the Practice Direction. The Parties understand that confidentiality in that context does not have the same meaning as confidentiality in the OEB’s *Practice Direction on Confidential Filings* and the rules of that latter document do not apply. Instead, in the Settlement Conference, and in this Settlement Proposal, the Parties have interpreted “confidential” to mean that the documents and other information provided during the course of the Settlement Conference, the discussion of each issue, the offers and counter-offers, and the negotiations leading to the settlement - or not - of each issue during the Settlement Conference and during the preparation of this Settlement Proposal are strictly privileged and without prejudice. None of the foregoing is admissible as evidence in this proceeding, or otherwise, with one exception, the need to resolve a subsequent dispute over the interpretation of any provision of this Settlement Proposal. Further, the Parties shall not disclose those documents or other information to persons who were not attendees at the Settlement Conference. However, the Parties agree that “attendees” is deemed to include, in this context, persons who were not in attendance via video conference at the Settlement Conference but were a) any persons or entities that the Parties engage to assist them with the Settlement Conference, and b) any persons or entities from whom they seek instructions with respect to the negotiations; in each case provided that any

such persons or entities have agreed to be bound by the same confidentiality provisions as the Parties.

This Settlement Proposal is organized in accordance with the Approved Issues List. This Settlement Proposal provides a brief description of each of the settled issues, together with references to the evidence submitted for the record in this proceeding. The Parties agree that references to the “evidence” in this Settlement Proposal shall, unless the context otherwise requires, include, in addition to the Application, the written responses to interrogatories and other components of the record up to and including the date hereof, (a) additional information included by the Parties in this Settlement Proposal; (b) the Appendices to this document; and (c) the evidence filed concurrently with this Settlement Proposal titled “Responses to Pre-Settlement Clarification Questions” (Clarification Responses).

The Parties for each settled issue agree that the evidence in respect of each settled issue is sufficient in the context of the overall settlement to support the proposed settlement, and the sum of the evidence in this proceeding provides an appropriate evidentiary record to support acceptance by the OEB of this Settlement Proposal.

There are Appendices to this Settlement Proposal which provide further support for the proposed settlement. The Parties acknowledge that the Appendices were prepared by EPCOR. While the Parties have reviewed the Appendices, the Parties are relying on the accuracy of those Appendices and the underlying evidence in entering into this Settlement Proposal.

<p>“Complete Settlement” means an issue for which complete settlement was reached by all Parties, and if this Settlement Proposal is accepted by the OEB, none of the Parties (including Parties who take no position on that issue) will adduce any evidence or argument during an oral hearing, if applicable, in respect of the specific issue.</p>	<p># issues settled: 3</p>
<p>“Partial Settlement” means an issue for which there is partial settlement, as EPCOR and the Intervenors who take any position on the issue were able to agree on some, but not all, aspects of the particular issue. If this Settlement Proposal is accepted by the OEB, the Parties (including Parties who take no position on the Partial Settlement) will only adduce evidence and argument during an oral hearing on the portions of the issue for which no agreement has been reached.</p>	<p># issues partially settled: 2</p>
<p>“No Settlement” means an issue for which no settlement was reached. EPCOR and the Intervenors who take a position on the issue will adduce evidence and/or argument at an oral hearing on the issue.</p>	<p># issues not settled: 7</p>

The final agreements of the Parties following the Settlement Conference are set out below. The Parties explicitly request that the OEB consider and accept this Settlement Proposal as a package. None of the matters in respect of which a settlement has been reached is severable. Numerous compromises were made by the Parties with respect to various matters to arrive at this Settlement Proposal. If the OEB does not accept this Settlement Proposal in its entirety, then there is no agreement, unless the Parties agree, in writing, that the balance of this Settlement Proposal may continue as a valid settlement subject to any revisions that may be agreed upon by the Parties.

It is further acknowledged and agreed that none of the Parties will withdraw from this Settlement Proposal under any circumstances, except as provided under Rule 30.05 of the Rules.

In the event that the OEB directs the Parties to make reasonable efforts to revise the Settlement Proposal, the Parties agree to use reasonable efforts to discuss any potential revisions, but no Party will be obligated to accept any proposed revision. The Parties agree that all of the Parties who took a position on a particular issue must agree with any revised Settlement Proposal as it relates to that issue, or decide to take no position on the issue, prior to its resubmission to the OEB for its review and consideration as a basis for making a decision.

Unless otherwise expressly stated in this Settlement Proposal, the settlement of any particular issue in this proceeding and the positions of the Parties in this Settlement Proposal are without prejudice to the rights of the Parties to raise the same issue and/or to take any position thereon in any other proceeding, whether or not EPCOR is a party to such proceeding.

In this Settlement Proposal, where any of the Parties “accept” the evidence of EPCOR, or “agree” to a revised term or condition, including a revised budget or forecast, then, unless the Settlement Proposal expressly states to the contrary, the words “for the purpose of settlement of the issues herein” shall be deemed to qualify that acceptance or agreement.

**C. SUMMARY OF SETTLEMENT PROPOSAL AND PROPOSAL FOR ISSUES
NOT COMPLETELY SETTLED**

Summary of Settlement Proposal:

In reaching this partial settlement, the Parties have been guided by the Filing Requirements For Electricity Distribution Rate Applications – 2022 Edition for 2023 Rate Applications, dated April 18, 2022, the Approved Issues List and the Report of the OEB titled *Renewed Regulatory Framework for Electricity Distributors: A Performance-Based Approach* dated October 18, 2012 (RRFE).

The Parties have reached a complete, partial or no settlement on the aspects of the Approved Issues List as summarized below in Table A.

Table A – Issues List Summary and Settlement Status		
ISSUE		STATUS
1.1	Capital	No Settlement
1.2	OM&A	No Settlement
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?	No Settlement
	2.2 Has the revenue requirement been accurately determined based on these elements?	No Settlement
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?	No Settlement
	3.2 Are the proposed cost allocation methodology, allocations, and revenue-to-cost ratios, appropriate?	Complete Settlement

	3.3 Are EPCOR Electricity Distribution Ontario Inc.'s proposals, including the proposed fixed/variable splits, for rate design appropriate?	Partial Settlement
	3.4 Are the proposed Retail Transmission Service Rates and Low Voltage rates appropriate?	Complete Settlement
	3.5 Are the Specific Service Charges, Retail Service Charges, and Pole Attachment Charge appropriate?	Complete Settlement
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?	No Settlement
	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?	Partial Settlement
5.0	Other	
	5.1 Is the proposed effective date (i.e. January 1, 2023) for 2023 rates appropriate?	No Settlement

This Settlement Proposal, including all Appendices, represents the evidence and the settlement between the Parties at the time of filing the Settlement Proposal, together with updates to the cost of capital arising from the OEB's October 20, 2022 letter announcing the 2023 cost of capital parameters; and the OEB's Regulated Price Plan update issued October 20, 2022. However, the Parties note that some evidence may need to be further updated as a result of the OEB's determination of the unsettled issues later in this proceeding.

The purpose of including the updated Revenue Requirement Work Form (RRWF), Chapter 2 Appendices, the DVA Continuity Schedule and proposed tariff is to establish the application data as updated to the end of the settlement process. Since there is not a complete settlement, there is no agreement that the values included within, and the resulting rates and bill impacts, are reasonable or appropriate.

Proposal for Issues not completely settled:

Due their complexity, importance, and interrelated nature, the Parties agree that the unsettled and partially settled issues would be most efficiently disposed of by way of an oral hearing.

SETTLEMENT BY ISSUE

The subsections below summarize the key components of this partial settlement reached by the Parties, including details on how each of the issues in the Approved Issues List has been addressed either through the Application or through the modifications to EPCOR's proposals, which have been agreed upon in this Settlement Proposal.

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*

No Settlement: The Parties have been unable to reach a settlement on this issue.

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*

No Settlement: The parties have been unable to reach a settlement on this issue.

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?*

No Settlement: The Parties have been unable to reach a settlement on these issues.

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?

Partial Settlement: With the exception of the loss factor calculation, there is no agreement on the appropriate load and customer forecast including the application of Conservation and Demand Management savings.

Although the Parties do agree with EPCOR's loss factor calculation for the purposes of setting rates, this does not preclude intervenors from proposing targets, plans or studies associated with EPCOR's loss factors in the course of a hearing.

Evidence:

Application: Exhibit 1.2.3; Exhibit 3; Exhibit 8.10

OEB Staff Clarification Questions: Question-13

IRRs: 1-Staff-1; 3-Staff-37 through 3-Staff-4; 3-SEC-30; 3-SEC-31; 3-VECC-15 through 3-VECC-23; 8-Staff-67; 8-SEC-46, 8-VECC-48

Clarification Responses: SEC-4

Chapter 2 Appendices updated for this Settlement Proposal:

Appendix 2-IB Load Forecast Analysis; Appendix 2-R Loss Factor Calculation

Appendices to this Settlement Proposal:

EEDO_2023 Load Forecast Model_20221205

Supporting Parties: SEC and VECC.

Parties Taking No Position: SBUA and ED.

3.2 *Are the proposed cost allocation methodology, allocations, and revenue-to-cost ratios appropriate?*

Complete Settlement: Subject to updates required to implement the OEB's decision on the unsettled or partially settled issues, the parties accept that EPCOR's cost allocation methodology, allocations, and revenue-to-cost ratios are appropriate.

The Parties note, that in terms of the load profiles used, while there is an agreement to use the demand allocators proposed by EPCOR for the purpose of settlement as they are reasonable, there is no agreement that the methodology used to derive the values is appropriate.

Evidence:

Application: Section 1.2.7, Exhibit 3, Exhibit 7

OEB Staff Clarification Questions: Question-14

IRRs: 1-Staff-1; 7-Staff-62 through 7-Staff-64; 7-SBUA-4; 7-SBUA-5; 7-VECC-39 through 7-VECC-47

Clarification Responses: VECC-57

Chapter 2 Appendices updated for this Settlement Proposal: None

Appendices to this Settlement Proposal:

Appendix B – Updated 2023 Bill Impacts;

Appendix C – Updated 2023 Proposed Tariff of Rates and Charges

Supporting Parties: SEC and VECC.

Parties Taking No Position: SBUA and ED.

3.3 *Are EPCOR Electricity Distribution Ontario Inc.'s proposals, including the proposed fixed/variable splits, for rate design appropriate?*

Partial Settlement: Subject to updates required to implement the OEB's decision on the unsettled or partially settled issues and the potential need for rate mitigation, the Parties agree that EPCOR's proposals for rate design, including the proposed fixed/variable splits, are appropriate.

Evidence:

Application: Exhibit 1.2.7; Exhibit 8.1

IRRs: 1-Staff-1; 8-Staff-65 through 8-Staff-67; 8-VECC-48 through 8-VECC-51;

Clarification Responses: None

Chapter 2 Appendices updated for this Settlement Proposal: None

Appendices to this Settlement Proposal:

Appendix B – Updated 2023 Bill Impacts;

Appendix C – Updated 2023 Proposed Tariff of Rates and Charges

Supporting Parties: SEC and VECC.

Parties Taking No Position: SBUA and ED.

3.4 *Are the proposed Retail Transmission Service Rates and Low Voltage Service Rates appropriate?*

Complete Settlement: The Parties agree that the Retail Transmission Service Rates (RTSRs) are appropriate. As part of this Settlement Proposal, EPCOR has updated its evidence with respect to the Low Voltage Service Rates (see enclosed Appendix E – Updated Low Voltage Rates Calculation). On the basis of this revised evidence, the Parties agree that the updated Low Voltage Service Rates are appropriate.

Evidence:

Application: Exhibit 8.2 Retail Transmission Service Rates (RTSRs); Exhibit 8.7 Low Voltage Service Rates

OEB Staff Clarification Questions: None

IRRs: 1-Staff-1; 8-Staff-66; 8-VECC-50

Clarification Responses: None

Chapter 2 Appendices updated for this Settlement Proposal: Appendix 2-ZA Com Exp. Forecast; Appendix 2-ZB Cost of Power

Appendices to this Settlement Proposal: Appendix B – Updated 2023 Bill Impacts; Appendix C – Updated 2023 Proposed Tariff of Rates and Charges

Supporting Parties: SEC and VECC.

Parties Taking No Position: SBUA and ED.

3.5 *Are the Specific Service Charges, Retail Service Charges, and Pole Attachment Charge appropriate?*

Complete Settlement: The Parties agree that EPCOR's proposed Specific Service Charges are appropriate. As part of this Settlement Proposal, EPCOR has updated its evidence with respect to the Retail Service Charges and Pole Attachment Charge with the most current data (see enclosed Appendix C – Updated 2023 Proposed Tariff of Rates and Charges). On the basis of this revised evidence, the Parties agree that the updated Retail Service Charges and Pole Attachment Charge are appropriate.

Evidence:

Application: Exhibit 8.5 and 8.6;

OEB Staff Clarification Questions: None

IRRs: None

Clarification Responses: VECC_56

Chapter 2 Appendices updated for this Settlement Proposal: None

Appendices to this Settlement Proposal:

Appendix C – Updated 2023 Proposed Tariff of Rates and Charges

Supporting Parties: SEC and VECC.

Parties Taking No Position: SBUA and ED.

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?*

No Settlement: The parties have been unable to reach a settlement on this issue.

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 new accounts, requests for discontinuation of accounts, and the continuation of existing accounts, appropriate?*

Partial Settlement: Subject to the exceptions noted immediately below, the Parties agree that EPCOR’s proposals for disposition of Group 1, LRAMVA and the updated Group 2 deferral and variance accounts, including the balances in the existing accounts, are appropriate. See enclosed Appendix F – Updated Group 2 DVA Balances for Disposition.

For further clarity, as part of the interrogatory process, EPCOR agreed to make a number of adjustments to the DVA balances (*principal balances shown below*):

	Account	Name	Original Application	Settlement	Variance	Staff IR	Comment
1	1508	Customer Choice Initiative Costs	\$8,500	\$0	\$8,500	9-Staff-74	Materiality
2	1508	Icon F&G Meter Disposal	\$512,493	\$512,493	\$0	9-Staff-73	Carrying Charges Adjustment
3	1508	Energy East Consultation Costs	\$2,275	\$0	\$2,275	9-Staff-74	Materiality
4	1508	LPP Variance	-\$2,217	\$0	-\$2,217	9-Staff-74	Materiality
5	1508	Foregone Revenues from Postponing Rate Implementation	\$0	-\$17,475	\$17,475	Settlement	Correction
6	1509	COVID-19 Deferral Account	\$40,600	\$0	\$40,600	9-Staff-75/Settlement	Materiality
7	1557	Meter Cost Deferral Account (MIST Meters)	\$250,901	\$250,901	\$0	9-Staff-77	Rate Class Reallocation
8	1595	Disposition and Recovery/Refund of Regulatory Balances (2018)	\$33,898	\$0	\$33,898	9-Staff-86	Timing (must wait another year)
		Total	\$846,449	\$745,919	\$100,530		

Exceptions:

- The Parties did not reach an agreement with respect to the appropriate disposition period for the proposed deferral and variance accounts and their applicable interest calculation, which is contingent on the OEB’s approved effective dates for new rates. In addition, the Parties did not reach an agreement on the continuation or discontinuation of the deferral and variance accounts.
- The Parties do not agree that EPCOR’s proposed disposition of Acct 1508 Other Regulatory Assets – OEB Cost Assessment Variance Account (Group 2) should be approved.

- The Parties do not agree that EPCOR's proposed establishment of the Non-Utility Billing Variance Account and Recovery of Income Taxes Deferral Account should be approved.

Evidence:

Application: Exhibit 1.2.8; Exhibit 9

OEB Staff Clarification Questions: None

IRRs: 1-Staff-1; 9-Staff-68 through 9-Staff-87; 9-SEC-47 through 9-SEC-49; 9-VECC-52 through 9-VECC-55

Clarification Responses: 9-Staff-104

Chapter 2 Appendices updated for this Settlement Proposal: None

Appendices to this Settlement Proposal:

Appendix B – Updated 2023 Bill Impacts;

Appendix C – Updated 2023 Proposed Tariff of Rates and Charges

Appendix F – Updated Group 2 DVA Balances for Disposition

EEDO_2023 DVA_Continuity_Schedule_20221209

Supporting Parties: SEC and VECC.

Parties Taking No Position: SBUA and ED.

5.0 OTHER

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

No Settlement: On September 14, 2022, EPCOR amended its application to request an effective date of October 1, 2023. EPCOR proposes that its first IRM rate adjustment after rates are set in this proceeding would be effective January 1, 2024.

The Parties have been unable to reach a settlement on this issue.