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

BY EMAIL

March 17, 2023

Ms. 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**
**PUC Distribution Inc.**
**Application for 2023 Electricity Distribution Rates**
**OEB File Number: EB-2022-0059**

Please find attached OEB staff's submission in the above referenced proceeding, pursuant to Procedural Order No. 5. PUC Distribution and all intervenors have been copied on this filing.

Yours truly,

Georgette Vlahos
Digitally signed by Georgette Vlahos
Date: 2023.03.17 10:43:04 -04'00'

Georgette Vlahos
Advisor – Electricity Distribution: Major Rate Applications & Consolidations

Encl.

cc: All parties in EB-2022-0059

# ONTARIO ENERGY BOARD

## OEB Staff Submission

**PUC Distribution Inc.**

**Application for 2023 Electricity Distribution Rates**

**EB-2022-0059**

**March 17, 2023**

## Introduction

PUC Distribution filed a cost of service application with the OEB, seeking approval for changes to the rates that PUC Distribution charges for electricity distribution, beginning May 1, 2023.[1]

The OEB issued an approved Issues List for this proceeding on October 27, 2022.[2] A settlement conference was held from December 12 to December 14, 2022 and continued on December 16 and December 20, 2022. PUC Distribution and the following intervenors participated in the settlement conference: Consumers Council of Canada, Environmental Defence Canada Inc., School Energy Coalition, and the Vulnerable Energy Consumers Coalition (collectively, the parties).

PUC Distribution filed a settlement proposal on March 10, 2023. The settlement proposal represents a full settlement and is proposed by PUC Distribution and the parties.

This submission is based on the status of the record at the time of the filing of the settlement proposal and reflects observations that arise from OEB staff's review of the evidence and the settlement proposal. This submission is intended to assist the OEB in deciding upon PUC Distribution's application and the settlement proposal.

## Overview

In the context of the overall settlement, OEB staff supports the settlement proposal as agreed to by the parties to this proceeding.

OEB staff has reviewed the settlement proposal in the context of the objectives of the *Renewed Regulatory Framework*[3], the *Handbook for Utility Rate Applications*[4], applicable OEB policies, relevant OEB decisions and the OEB's statutory obligations. OEB staff submits that the settlement proposal reflects a reasonable evaluation of the distributor's planned outcomes in this proceeding, appropriate consideration of the relevant issues and ensures that there are sufficient resources to allow PUC Distribution to achieve its identified outcomes in the five years of the plan from 2023 to 2027.

OEB staff further submits that the explanations and rationale provided by the parties support the settlement proposal and that the outcomes arising from the OEB's approval

[1] Pursuant to section 78 of the *Ontario Energy Board Act*, 1998, S.O. 1998, c. 15, (Schedule B)
[2] EB-2022-0059, Decision on Issues List, October 27, 2022
[3] *Renewed Regulatory Framework for Electricity Distributors: A Performance-Based Approach*, October 18, 2012
[4] *Handbook for Utility Rate Applications*, October 13, 2016

of the settlement proposal would reflect the public interest and would result in just and reasonable rates for customers.

Given certain unique issues agreed to by parties in the current proceeding, and in the context of a full settlement proposal, OEB staff's support for certain matters in this proceeding is not indicative of OEB staff's position in any subsequent application by PUC Distribution, or any other applicant.

For a typical residential customer with a monthly consumption of 750 kWh, the total bill impact under the filed settlement proposal is an increase of approximately $4.25 per month before taxes and the Ontario Electricity Rebate, or 3.55%. These bill impacts do not reflect anticipated energy savings of 2.70% that may be achieved through the implementation of the Sault Smart Grid (SSG) project. As noted by PUC Distribution, based on current forecasts, the physical installation of the SSG project will be largely complete by March 31, 2023. However, Substantial Completion[5] will not occur until November 1, 2023. PUC Distribution anticipates being able to start measuring savings at the time of Substantial Completion.[6]

## SSG Project Background

Given the SSG project's impact on this cost of service application and resulting settlement proposal in various respects, OEB staff believes it is helpful to provide some historical information on the SSG project.

The SSG project is a community wide smart grid which will cover PUC Distribution's entire service territory. The intent of the project is to implement various technologies such as Voltage/VAR Optimization (VVO), Distribution Automation and Advanced Metering Infrastructure.[7]

The realized net benefit to customers can vary and is dependent on numerous factors, including energy consumption and electricity prices. The annual net benefit to customers is also dependent on PUC Distribution's success in achieving a 2.70% energy reduction from VVO.[8]

[5] Substantial Completion is a defined term under the engineering, procurement, and construction contract for the SSG project. See EB-2020-0249/EB-2018-0219, Appendix AA3-7.
[6] EB-2022-0059, Settlement Proposal, Appendix F – Pre-Settlement Clarification Questions, CCC-55
[7] EB-2020-0249/EB-2018-0219, Decision and Order, April 29, 2021, p. 4
[8] VVO allows a utility to operate its distribution system at the lower end of the acceptable voltage ranges and reduces reactive power in the distribution system resulting in lower system losses, lower energy consumption, and an overall system energy and demand reduction.

In April of 2021, the OEB approved PUC Distribution's amended and restated application for Incremental Capital Module (ICM) funding for the SSG project and associated rate riders, effective May 1, 2022.[9] The total gross project cost estimate in the ICM application was $32.9M. This estimate included the total engineering, procurement, and construction (EPC) contract costs of $27.7M which was structured as a "maximum price limit" project. PUC Distribution entered into a Contribution Agreement with Natural Resources Canada (NRCan) to qualify the SSG project for funding under the NRCan Smart Grid Program. The estimated NRCan contribution in the ICM application was approximately $8.1M, which was 25% of the eligible project cost estimate at the time.[10] The project was scheduled to be in-service by December 31, 2022.

The OEB accepted the net capital cost forecast of the SSG project of $24.8M and the associated incremental half-year revenue requirement calculation. The OEB also approved an accounting order to accommodate the NRCan grants associated with this project.

To manage the risks associated with the project and appropriately monitor its progress, the OEB's approval of the SSG was subject to various conditions.[11] More information on these conditions can be found in this OEB staff submission under Issue 5.4.

In the current application, total SSG project costs are forecasted to be $24.5M. Further, as noted above, the physical installation of the SSG project will be largely complete by March 31, 2023. However, Substantial Completion will not occur until November 1, 2023. Issue 5.3 of this submission provides details related to the parties' agreed-upon rate base treatment for the SSG project.

## OEB Staff Submission on Settlement Proposal

OEB staff provides specific submissions on certain issues established by the OEB:

- Issue 1.0 - Planning
    - 1.1 Capital
    - 1.2 Operating, Maintenance, and Administration
- Issue 2.0 - Revenue Requirement
- Issue 3.0 - Load Forecast, Cost Allocation and Rate Design
- Issue 4.0 - Accounting

[9] Ibid, p. 10
[10] Under the Contribution Agreement, NRCan agreed to fund the lesser of 25% of total project costs incurred or $10,626,500.
[11] EB-2020-0249/EB-2018-0219, Decision and Order, p. 24.

- Issue 5.0 - Other
  - 5.1 Is the proposed effective date (i.e., May 1, 2023) for 2023 rates appropriate?
  - 5.2 Are the amounts proposed for inclusion in rate base for the Incremental Capital Module approved in EB-2019-0170 and the proposed treatment of the associated true-up appropriate?
  - 5.3 Are the amounts proposed for inclusion in rate base for the Incremental Capital Module approved in EB-2018-0219/EB-2020-0249 and the proposed treatment of the associated true-up appropriate?
  - 5.4 Has PUC Distribution Inc. responded appropriately to the OEB's directions/orders from its stand-alone Incremental Capital Module application relating to the Sault Smart Grid Project (EB-2018-0219/EB-2020-0249)?

## Issue 1.0 – Planning

### Issue 1.1 – Capital

PUC Distribution proposed net capital expenditures of $10.1M for the 2023 test year. PUC Distribution's application stated that the SSG project remained on plan, including assets in service by the end of 2022, with optimizing and additional testing to occur in the first quarter of 2023. Since there was a portion of testing to occur in the first quarter of 2023, proposed 2023 expenditures included approximately $3.2M related to SSG spending. Forecasted 2022 net capital expenditures were $29.3M which included $21.4M for the SSG project.

PUC Distribution's pre-settlement clarification responses contained an update on timing of the SSG project. SSG project expenditures of $12.4M were shifted from 2022 to 2023, decreasing 2022 SSG project capital spending from $21.4M to $9.0M, and increasing 2023 SSG project capital budget from $3.2M to $15.5M. [12]

As outlined in the settlement proposal, the application of the half-year rule to the $15.5M SSG project additions placed in-service in the test year (2023) could result in PUC Distribution underearning beginning in 2024 and substantially impair PUC Distribution's cash flow.[13] Given the unique circumstance related to the project delay, the relative size of the SSG project, and the OEB's previous approval in the ICM application, the parties agreed to the creation of the new Sault Smart Grid Project Recovery Mechanism. This mechanism removes the entire SSG project (comprised of 2022 net book value and 2023 capital additions) from PUC Distribution's rate base and calculates separate rate

[12] EB-2022-0059, Settlement Proposal, Appendix F – Pre-Settlement Clarification Questions, CCC-55
[13] EB-2022-0059, Settlement Proposal, pp. 51

riders to recover the SSG revenue requirement for the 2023 to 2027 period. The Sault Smart Grid Project Recovery Mechanism is further discussed under Issue 5.3.

The parties agreed to other reductions of $1.2M in capital additions for the 2022 bridge year and $750k for the 2023 test year capital budget. The tables below outline the updated historical and forecast capital expenditures after the SSG project has been removed from rate base.

**Table 1: Historical Period Capital Expenditure Summary – Excluding SSG Project Spending ($000's)**

| Year | 2018 Plan | 2018 Actual | 2019 Plan | 2019 Actual | 2020 Plan | 2020 Actual | 2021 Plan | 2021 Actual | 2022 Plan | 2022 YTD Actual |
|---|---|---|---|---|---|---|---|---|---|---|
| System Access | 1,514 | 1,890 | 2,042 | 2,475 | 2,552 | 2,364 | 2,052 | 2,154 | 2,035 | 2,180 |
| System Renewal | 3,761 | 3,599 | 7,357 | 3,172 | 3,328 | 3,397 | 4,565 | 8,918 | 7,129 | 3,054 |
| System Service | - | 73 | - | - | - | 12 | - | 154 | - | - |
| General Plant | 86 | 14 | 55 | 188 | 62 | 124 | 60 | 593 | 55 | 118 |
| **Total** | 5,388 | 5,576 | 9,454 | 5,835 | 5,942 | 5,884 | 6,676 | 11,820 | 9,219 | 5,352 |
| **Contributed Capital** | 450 | 431 | 458 | 1,112 | 496 | 658 | 480 | 586 | 511 | 182 |
| **Net Capital** | 4,938 | 5,145 | 8,996 | 4,723 | 5,445 | 5,226 | 6,197 | 11,234 | 8,708 | 5,170 |

**Table 2: Forecast Period (Planned) Capital Expenditure Summary – Excluding SSG Project Spending ($000's)**

| Year | 2023 Test | 2024 | 2025 | 2026 | 2027 |
|---|---|---|---|---|---|
| System Access | 2,339 | 2,672 | 2,792 | 2,494 | 2,357 |
| System Renewal | 4,356 | 4,240 | 3,442 | 3,548 | 2,567 |
| System Service | | 127 | 841 | 750 | 5,859 |
| General Plant | 150 | 813 | 1,033 | 432 | 633 |
| **Total** | 6,845 | 7,853 | 8,109 | 7,224 | 11,416 |
| **Contributed Capital** | 593 | 616 | 642 | 612 | 624 |
| **Net Capital** | 6,252 | 7,236 | 7,467 | 6,612 | 10,792 |

Most of the spending in the test year, excluding the SSG project, is for new services, overhead/underground line renewals, voltage conversions, and replacement of polychlorinated biphenyl contaminated transformers.

As part of the SSG project approval in the ICM application, the OEB directed PUC Distribution to file an updated Distribution System Plan to demonstrate how the SSG project was being accommodated through the reprioritization of other capital expenditures.[14] In the current application, PUC Distribution stated that it reprioritized $3.5M by deferring the rebuild of Substation 22 to 2026-2027 and redirected funds to the renewal of transformers and switchgear. Through OEB staff interrogatories, PUC Distribution confirmed that the renewal of transformers and switchgears was not in the original SSG project scope, but this was an opportunity for execution efficiencies to meet SSG scope while addressing asset replacement needs.[15]

OEB staff notes that PUC Distribution demonstrated it had the ability to reprioritize $3.5M of capital expenditure to accommodate the original SSG project scope but it did not result in a decrease of the total capital budget. However, OEB staff supports PUC Distribution's intent to find execution efficiencies after the SSG scope was approved. OEB staff submits that the proposed $1.2M reduction in bridge year capital additions provides reasonable balance between accommodating the SSG project within the capital budget and achieving execution efficiencies.

As noted above, parties agreed to a $750k reduction to the 2023 test year net capital expenditures ($6.3M). The average historical net capital spending, excluding Substation 16[16] and the SSG project, between 2018 and 2022 is $5.4M. OEB staff submits that the overall capital reduction is reasonable and is closer to historical spending levels. To achieve the overall reduction, PUC Distribution made a $243k reduction in system renewal. OEB staff notes that PUC Distribution's system renewal budget in 2023 is $4.4M but the average system renewal budget between 2023 to 2027 is $3.6M. OEB staff submits that the reduction to system renewal is reasonable and represents a better pacing of system renewal spending. PUC Distribution also made a $507k reduction to general plant. OEB staff notes that two of the main investments in general plant were investments in "facilities" and "tools & equipment" which had a low investment priority of 9 and 10 out of 11. OEB staff has no concerns with the overall general plant reduction.

PUC Distribution has agreed, as part of its next rebasing application, to provide more detailed asset replacement information and non-test year material capital expenditure information.[17] OEB staff submits that this additional information will be helpful in

[14] EB-2020-0249/EB-2018-0219 Decision and Order, April 29, 2021, p. 24
[15] EB-2022-0059, Interrogatory Responses, November 28, 2022, Staff-25
[16] The Substation 16 project was approved by the OEB as part of PUC Distribution's 2020 IRM application (EB-2019-0170). In that application, the OEB approved PUC Distribution's Substation 16 ICM with an associated estimated cost of $4.7M million. The project was substantially completed in 2021 as opposed to 2020 at a revised total cost of $6.0M million. See Issue 5.2 of this submission for more details.
[17] EB-2022-0059, Settlement Proposal, p. 14

reviewing PUC Distribution's investments in non-test years and to better understand PUC Distribution's pacing of asset replacement at the time of its next rebasing application.

### Issue 1.2 – Operating, Maintenance, and Administration (OM&A)

OEB staff considers the agreement reached by parties with respect to 2023 OM&A expenses reasonable.

PUC Distribution proposed total OM&A expenses of $13.53M for the 2023 test year.[18] PUC Distribution stated that in general, other than inflation, the increases compared to its 2018 OEB-approved expenses are primarily due to the addition of 2 full-time equivalents associated with the SSG, updates to the PUC Services shared cost allocation model[19], and increased cyber security, regulatory and IT resources.[20]

The parties have agreed to an envelope reduction of $550k to PUC Distribution's proposed 2023 OM&A expenses to $12.98M. PUC Distribution has applied the OM&A reduction on an envelope basis to its overall OM&A expenses as seen in Table 1.2A of the settlement proposal. As noted in the settlement proposal, PUC Distribution may adjust its OM&A plans as it sees fit.

The revised 2023 OM&A amount results in an increase of 15.4% (2.9% compounded annually) from 2018 actual OM&A spending. OEB staff notes that PUC Distribution is in cohort 3 (the third most efficient group) according to the *Empirical Research in Support of Incentive Rate-Setting: 2021 Benchmarking Update.*[21]

In the context of the overall settlement proposal, OEB staff submits that the envelope reduction of $550k in OM&A is reasonable. OEB staff further notes that the settled OM&A envelope should ensure PUC Distribution has the resources to maintain a safe and reliable distribution system.

[18] This amount excludes property taxes and LEAP funding.
[19] PUC Distribution, through its affiliate PUC Services, operates using an 'at cost' shared services model. PUC Distribution has no employees but rather relies on PUC Services to provide the necessary resources to operate the distribution utility.
[20] EB-2022-0059, Exhibit 4, p. 8
[21] Report to the Ontario Energy Board – "Empirical Research in Support of Incentive Rate-Setting: 2021 Benchmarking Update", prepared by Pacific Economics Group LLC., July 2022. As noted on page 9, stretch factors are assigned based on a three-year average of actual less predicted costs over the 2019-2021 period. Those within 10% of predicted costs received a stretch factor of 0.30%.

## Issue 2.0 – Revenue Requirement

### Rate Base

As outlined in Issue 1.1 of this submission, OEB staff considers the agreement to reduce 2022 bridge year capital additions by $1.2M and the reduction of $750k to the 2023 test year reasonable.

Substation 16

The parties have agreed to the inclusion of the net book value for the Substation 16 project into rate base, including the additional costs incurred.[22] OEB staff's submission on this matter is detailed under Issue 5.2.

SSG

As noted previously, the parties have agreed that the entire SSG capital related costs are to be removed from 2023 rate base for the purposes of calculating the 2023 test year revenue requirement. OEB staff's submission on this matter is outlined in Issue 5.3.

### Cost of Capital

OEB staff supports the agreement reached by parties. OEB staff assessed the proposed treatment of the principal and the debt rates relative to new Infrastructure Ontario debt. OEB staff concluded that the agreed-to treatment is compliant with the OEB's cost of capital policy in the *Report of the Board on the Cost of Capital for Ontario's Regulated Utilities* (the Cost of Capital Report).[23]

Parties have agreed to reduce PUC Distribution's total debt by $10,136,300 and apply that reduction to its most recent debt.[24] PUC Distribution's application stated that a new loan is to be finalized with Infrastructure Ontario in the principal amount of $20.2M with a start date of January 1, 2023.[25]

With respect to the rate associated with financing secured in 2023, the parties have agreed to use the OEB's 2023 deemed long-term debt rate of 4.88%[26] as opposed to 5.00% as proposed in the application.[27]

[22] See footnote 16.
[23] EB-2009-0084, *Report of the Board on the Cost of Capital for Ontario's Regulated Utilities*, December 11, 2009
[24] EB-2022-0059, Settlement Proposal, p. 20
[25] EB-2022-0059, Exhibit 5, p. 6
[26] OEB, 2023 Cost of Capital Parameters, October 20, 2022
[27] EB-2022-0059, Exhibit 5, p. 6

OEB staff submits that reducing the principal of the financing to be secured in 2023 results in a lower weighted average cost of long-term debt and a lower after-tax weighted average cost of capital, thus lowering distribution rates to be paid by ratepayers. The weighted average cost of long-term debt was reduced from 4.40% to 4.31%, and the weighted average cost of capital was reduced from 6.40% to 6.35%. OEB staff views the agreed-to treatment, both with respect to the treatment of the principal and debt rate, for this new debt is in the public interest in the context of this settlement proposal.

The OEB's Cost of Capital Report makes it clear that, while reliance is made on the actual (embedded) cost of debt for the portfolio of debt instruments of a regulated utility, the OEB's deemed long-term debt rate will act as the ceiling on the allowed interest rate for debt under certain circumstances. These circumstances include affiliated debt (to ensure that the arrangement appears to be "at arm's length") and for debt without a specific term (or maturity). Variable rate debt or new debt for which no reasonable forecast may be available also falls under these criteria.[28]

While OEB staff notes that the credit facility with Infrastructure Ontario planned for January 1, 2023 had not been finalized, including the expected interest rate, at the time parties reached their agreed-upon settlement,[29] OEB staff views the use of the OEB's 2023 deemed long term debt rate as reasonable in this circumstance.

### PILS Expense

OEB staff does not have any concerns with the forecast PILs expense as agreed to by the parties. The parties agreed that the PILs of $764,359, excluding the PILs impact from the SSG project, have been appropriately determined in accordance with OEB policies and practices. The test year PILs calculation did not apply PUC Distribution's forecasted 2022 tax loss carry-forward to regulatory taxable income. The PILs also reflected a five-year smoothing method for capital cost allowance (CCA) to address the phase-out of the accelerated CCA rules[30] starting in 2024, where the rules will be fully phased out in 2028. The smoothing adjustment added to test year regulatory net income before taxes of $196,973 as set out in Table 2.2F of the settlement proposal is calculated based on 2023 capital additions, excluding the SSG project.

OEB staff agrees that the tax loss carry-forward should not be applied to taxable income because the revenue requirement impact of the tax loss carry-forward was agreed to be

[28] The Cost of Capital Report, p. 53
[29] EB-2022-0059, Interrogatory Responses, November 28, 2022, SEC-32 and 5-Staff-86
[30] Accelerated CCA was introduced through the Accelerated Investment Incentive program, to provide for a first-year increase in CCA deductions on eligible capital assets acquired after November 20, 2018.

returned to ratepayers through a rate rider, as discussed under Issue 4.0 Proposed Rate Rider for the Refund of Tax Loss Carry Forwards. Excluding the tax loss carry-forward from PILs ensures that the impact of the tax loss carry-forward is not double counted.

Regarding the CCA smoothing method, OEB staff notes in its July 25, 2019 letter titled Accounting Direction Regarding Bill C-97 and Other Changes in Regulatory or Legislated Tax Rules for Capital Cost Allowance, the OEB stated that that it may consider a smoothing mechanism to address any timing differences that could lead to volatility in tax deductions over the rate-setting term. OEB staff also notes that CCA smoothing proposals have been previously accepted by the OEB in settlement proposals of other proceedings.[31] In OEB staff's view, the agreed-upon smoothing adjustment calculation in PUC Distribution's settlement proposal is one of the appropriate methods to address the phase out of accelerated CCA. Therefore, OEB staff does not take issue with PUC Distribution's smoothing adjustment calculation.

The parties also agreed that no new entries will be recorded in Account 1592 – PILs and Tax Variances, Sub-account CCA Changes subsequent to December 31, 2022, unless there are further changes to the current tax laws and rules governing CCA or if the OEB orders otherwise. OEB staff agrees with this approach. Account 1592, Sub-account CCA Changes was established to track the impact of any differences that result from a change in the CCA rule used to determine the tax amount that underpins rates.[32] As noted in the OEB's Filing Requirements, if the OEB is satisfied with the smoothing proposal, the distributor's use of the 1592 sub-account will no longer be applicable.[33] In OEB staff's view, the intent of a smoothing adjustment is to address the change in CCA rules resulting from the phase out of accelerated CCA upfront in the current application, instead of capturing the impact of those rule changes as they occur during the IRM period. Therefore, the 1592 sub-account would no longer be needed for the 2023 to 2027 period, unless there are further changes to CCA rules that were not contemplated in the calculation of the smoothing adjustment.

### Issue 2.2 – Has the revenue requirement been accurately determined based on these elements?

[31] Brantford Power Inc. 2022 Cost of Service Decision and Order, EB-2021-0009, October 28, 2021, Canadian Niagara Power Inc. 2022 Cost of Service Decision and Rate Order, EB-2021-0011, December 16, 2021

[32] Account 1592, Sub-account CCA Changes was established in the OEB's letter Accounting Direction Regarding Bill C-97 and Other Changes in Regulatory or Legislated Tax Rules for Capital Cost Allowance, July 25, 2019

[33] Chapter 2 Filing Requirements For Electricity Distribution Rate Applications - 2022 Edition for 2023 Rate Applications, April 18, 2022, p. 39

OEB staff has no concerns with the revenue requirement calculations.

The parties have agreed to a service revenue requirement of $25.86M and a base revenue requirement of $23.21M. The table below, replicated from the settlement proposal, shows the change in revenue requirement between PUC Distribution's initially filed application and the settlement proposal.

**Table 3: PUC Distribution Revenue Requirement**

| 2022 Test Year | Original Application | Interrogatories | Change | Settlement Proposal | Change | Total Change |
|---|---|---|---|---|---|---|
| **OM&A Expenses** | $13,533,701 | $13,533,701 | $0 | $12,983,701 | ($550,000) | ($550,000) |
| **Depreciation Expense** | $5,425,413 | $5,440,457 | $15,044 | $4,563,469 | ($876,988) | ($861,944) |
| **Taxes Other than Income Taxes** | $384,446 | $384,446 | $0 | $384,446 | $0 | $0 |
| **LEAP** | $31,144 | $31,245 | $101 | $27,850 | ($3,395) | ($3,294) |
| **Total** | $19,374,704 | $19,389,849 | $15,145 | $17,959,466 | ($1,430,383) | ($1,415,238) |
| **Regulated Return on Capital** | $7,803,354 | $8,706,008 | $902,654 | $7,139,194 | ($1,566,814) | ($664,160) |
| **Grossed Up PILs** | $574,141 | $684,022 | $109,881 | $764,361 | $80,339 | $190,220 |
| **Service Revenue Requirement** | $27,752,199 | $28,779,879 | $1,027,680 | $25,863,021 | ($2,916,859) | ($1,889,179) |
| **Other Revenues** | $2,750,265 | $2,867,022 | $116,757 | $2,654,087 | ($212,935) | ($96,178) |
| **Base Revenue Requirement** | $25,001,934 | $25,912,857 | $910,923 | $23,208,934 | ($2,703,924) | ($1,793,001) |
| **Distribution Revenue at Current Rates** | $21,083,379 | $21,034,207 | ($49,172) | $21,506,030 | $471,823 | $422,651 |
| **Revenue Deficiency/Sufficiency** | $3,918,555 | $4,878,650 | $960,095 | $1,702,904 | ($3,175,747) | ($2,215,652) |

## Issue 3.0 – Load Forecast, Cost Allocation, and Rate Design

### Load Forecast

OEB staff submits that the adjustments included in the settlement agreement and summarized below are reasonable.

The parties agreed that PUC Distribution would adjust its load forecast by holding the trend of decreasing consumption constant at its December 31, 2021 value, only use 20% of its forecasted 2023 CDM adjustment, and remove the customer count indicator which was not a statistically significant predictor of energy consumption.

In the context of the settlement proposal, OEB staff does not have any concerns with the proposed load forecast of 606 GWh, 583 MW and 42,463 customers and connections as shown in Table 3.1A of the settlement proposal. This reflects an increase of 27 GWh and 28 MW over the initial proposal. OEB staff submits that the agreed-upon load and customer connection forecasts are reasonable.

## Cost Allocation

PUC Distribution updated its load profiles for the purpose of determining updated coincident peak demand and non-coincident peak demand allocators. The parties accepted the results of the cost allocation using the updated load profiles but are not willing to agree that the methodology is appropriate.

OEB staff agrees that the updated demand allocators appear reasonable and support their use. OEB staff does not have any concerns with the cost allocation agreed to by the parties.

## Rate Design

OEB staff has no concerns with the rate design proposal.

The parties agreed that the fixed charges for the General Service < 50 kW, General Service > 50 kW and Unmetered Scattered Load rate classes be maintained at their current charges of $22.32, $123.27 and $13.67 respectively, as these already exceed the allocated cost of the Minimum System with Peak Load Carrying Capability adjustment (commonly referred to as the ceiling).

## Embedded Generation Rate Rider

OEB staff supports the parties' agreement that the proposed rate rider for embedded generation is appropriate.

In PUC Distribution's previous rebasing application for 2018 rates[34], parties in that proceeding agreed that PUC Distribution would create a rate rider for embedded generation for Account 1580 RSVA Wholesale Market Service Charge. This rate rider was designed to address the systematic over-collection of the Wholesale Market Service Rate (WMSR) and Rural or Remote Electricity Rate Protection charge (RRRP) from PUC Distribution's customers relative to its obligations to the Independent Electricity System Operator. Any remaining under or over collection would continue to be booked to Account 1580. The OEB accepted the settlement proposal and noted in its acceptance that it considered the significance of the volume of embedded generation in PUC Distribution's service area, as well as the predictable nature of the over collection as noted by OEB staff.[35]

[34] EB-2017-0071
[35] Ibid, Decision and Rate Order, September 27, 2018, page 4

In its current application, PUC Distribution updated its forecast of embedded generation to the most recent five-year average of historical actuals.

OEB staff submits that it is desirable to minimize balances in variance accounts where it is possible to do so. Therefore, OEB staff does not oppose the use of a rate rider in this instance. Any remaining under or over collection would continue to be booked to Account 1580.

## Issue 4.0 - Accounting

OEB staff supports the settlement proposal reached by parties relating to deferral and variance accounts (DVAs).

In the settlement proposal, parties agreed to dispose of PUC Distribution's Group 1 balances (debit of $11,432) as of December 31, 2021, and Group 2 and Lost Revenue Adjustment Mechanism Variance Account balances (credit of $24,227) as of December 31, 2021[36], including forecasted interest to April 30, 2023. All DVA balances are to be disposed over a one-year period.

OEB staff's submission on certain aspects of the DVAs is outlined below. OEB staff's submission on Account 1592, Sub-account CCA Changes is set out under Issue 2.0 above (PILs Expense) and further below under the heading Proposed Rate Rider for the Refund of Tax Loss Carry Forwards. OEB staff's submissions on the Substation 16 and SSG project ICM True-Up DVAs are set out under Issues 5.2 and 5.3, respectively.

### Forecasting Certain Group 2 Balances

OEB staff agrees with including forecasted 2022 balances for disposition for the agreed upon Group 2 DVAs.

Parties have agreed to the disposition of forecasted 2022 balances for

- Account 1508 – Sub-account Pole Attachment Revenue Variance
- Account 1518 – Retail Cost Variance Account – Retail
- Account 1548 – Retail Cost Variance Account – STR
- Account 1509 – Impacts Arising from the COVID-19 Emergency

The parties have also agreed that the aforementioned 1508 sub-account, Accounts 1518, 1548 and 1509 will be discontinued. OEB staff notes that, typically, audited

[36] As discussed below, certain DVAs include forecasted 2022 amounts

balances are disposed,[37] but there are exceptions to this requirement. For example, in the disposition of retail service charge related variance accounts and the Account 1508 sub-account for pole attachment charges, the OEB may consider disposing forecasted amounts up to the effective date of rebased rates.[38] OEB staff's view is that there are regulatory efficiencies to be gained and less intergenerational inequity by disposing the forecasted 2022 principal balances in the noted accounts and closing the accounts (as applicable) in the current application. OEB staff submits that this approach is preferred over disposing the 2022 audited balances of these accounts in PUC Distribution's next cost of service proceeding (which is expected for 2028 rates).

### Account 1509 – Impacts Arising from the COVID-19 Emergency

OEB staff does not take issue with the agreed upon disposition of Account 1509, Impacts Arising from the COVID-19 Emergency, Sub-account Impacts from Complying with Government/OEB-initiated Customer Relief Programs.

In its pre-filed application, PUC Distribution proposed to dispose a debit balance of $401,767 in Account 1509, Sub-account Impacts from Complying with Government/OEB-initiated Customer Relief Programs, with the cost breakdown set out in the following table:[39]

**Table 4: Breakdown of Account 1509, Sub-account Impacts from Complying with Government/OEB-initiated Customer Relief Programs – As Filed**

| Account 1509 | 2020 | 2021 | Total |
|---|---|---|---|
| Incremental Billing Expenses | $577 | $0 | $577 |
| Incremental Labour | $199,927 | $50,239 | $250,166 |
| Waived Interest | $199,153 | $0 | $199,153 |
| Additional LEAP Funding | $13,133 | $0 | $13,133 |
| Principal | **$332,790** | **$50,239** | **$383,029** |
| Carrying Costs | $10,135 | $8,603 | $18,738 |
| Balance | **$342,925** | **$58,842** | **$401,767** |

The parties agreed to the disposition of the revised account balance of $326,141

[37] Page 57 Chapter 2 Filing Requirements For Electricity Distribution Rate Applications – 2022 Edition for 2023 Rate Applications, April 18, 2022 indicates that explanations are required if the account balances in the continuity schedule differ from the account balances in the trial balance reported through the Electricity RRR and documented in the distributor's audited financial statements
[38] Filing Requirements For Electricity Distribution Rate Applications - 2022 Edition for 2023 Rate Applications, Chapter 2 Cost of Service, April 18, 2022, p. 51 & 63
[39] EB-2022-0059, Interrogatory Responses, Staff-106a

including carrying charges in the 1509 sub-account as at December 31, 2021,[40] and to close the sub-account subsequent to disposition. The revised balance reflects the parties' agreement to

- exclude the 2021 incremental labour amount of $50,239 from disposition as it did not reach the materiality threshold
- exclude $26,654 in the 2020 incremental labour amount for executive labour costs associated with the COVID-19 emergency

OEB staff does not take issue with the disposition of the sub-account in the context of settlement. PUC Distribution provided its consideration of the rules for the account as set out in the OEB's COVID-19 Report.[41,42] PUC Distribution indicated that it met the means test and the materiality criteria and is eligible for full recovery of the amounts in the exceptional pool sub-account (i.e., Sub-account Impacts from Complying with Government/OEB-initiated Customer Relief Programs). OEB staff notes that PUC Distribution included incremental billing and labour costs in the sub-account. In OEB staff's view, these types of costs would be eligible to be recorded in the sub-account as the sub-account is to include all incremental impacts associated with compliance with government or OEB initiated actions taken to assist customers related to the COVID-19 pandemic. The COVID-19 Report states that certain implementation and administration costs are appropriate to be recorded in the sub-account [43,44]

In OEB staff's view, the disposition of the sub-account does not contradict the rules for the account as set out in the COVID-19 Report. Therefore, in the context of settlement, OEB staff does not take issue with the disposition of the sub-account.

### New Accounts

The parties agreed to establish Account 1508, Sub-account SSG Project Recovery Mechanism Variance Account. Refer to Issue 5.3 for OEB staff's submission on this sub-account.

The parties also agreed to establish Account 1508, Sub-account Incremental VVO Costs or Savings and Account 1508, Sub-Account 1508 EPC Contract Liquidated

[40] No amounts were forecasted for 2022 and 2023 as per EB-2022-0059, Exhibit 9, p.28
[41] EB-2022-009, Exhibit 9, pp. 23-28, and Interrogatory Response Staff-106
[42] *Report of the OEB, Regulatory Treatment of Impacts Arising from the COVID-19 Emergency*, June 17, 2022, EB-2020-0133 p.22
[43] *Ibid*, p.42
[44] *Report of the OEB, Regulatory Treatment of Impacts Arising from the COVID-19 Emergency*, June 17, 2022, EB-2020-0133, pages18-20, costs and lost revenues appropriate for the exceptional pool costs treatment include implementation costs of emergency time-of-use rates and deferred global adjustment charges, implementation and administration of CEAP and CEAP-SB, increased LEAP EFA funding, lost revenues from certain reduced/waived specific service charges

Damages. Issue 5.4 of OEB staff's submission addresses these sub-accounts.

### Account 1568 – LRAMVA

PUC Distribution proposed to dispose of its updated LRAMVA balance of $198k, including carrying charges. The balance is comprised of savings and persistence of 2017-2022 CDM program activity. In the settlement proposal, the parties agreed to dispose of the updated LRAMVA balance proposed by PUC Distribution. The parties also agreed to a disposition period of one-year. If disposition is approved, PUC Distribution would have a zero balance in the LRAMVA.

OEB staff has no concerns with the updated LRAMVA balance proposed for disposition. The LRAMVA will not be discontinued. If PUC Distribution requests the use of the LRAMVA for a CDM activity in a future application, OEB staff anticipates that the OEB will consider the request at that time.

### Proposed Rate Rider for the Refund of Tax Loss Carry Forwards

OEB staff does not object to the agreed-upon treatment of the tax loss carry-forward and the Account 1592, Sub-account CCA Changes in the context of settlement.

PUC Distribution forecasted tax loss carry-forwards as at December 31, 2022 that would be available to offset future taxable income. The parties agreed that the cumulative impact of accelerated CCA (including the impact from the 2022 projected SSG assets additions) as at December 31, 2022 that would have been otherwise recorded in Account 1592, Sub-account CCA Changes, is captured in the tax loss carry-forward instead of the 1592 sub-account. The parties agreed to refund $584,012 in revenue requirement impact of the tax loss carry-forward to ratepayers through a one-year rate rider. The tax loss carry-forward excludes the impact of CCA calculated using the legacy half year rule for 2022 SSG project additions as well as 2021 and 2022 Substation 16 additions because these CCA amounts have already been included in the PILs calculation of the ICM true-ups for the SSG project and Substation 16.[45]

<u>Correlation to Account 1592</u>

OEB staff does not object to the agreed-upon treatment of the tax loss carry-forward and the 1592 sub-account in the context of settlement. CCA is a deduction against taxable income. As a result, the greater the CCA deduction, the lower the taxable income or the greater the tax loss in the case of no taxable income (and resulting tax loss carry-forward). PUC Distribution forecasted a tax loss carry-forward for 2022, which would therefore, partly have been driven by its accelerated CCA claims in its forecasted

[45] EB-2022-0059, Settlement Proposal, pp. 44 Table 4.3A

2022 and prior tax returns. This would mean that the impact of accelerated CCA has automatically been reflected in the tax loss carry-forward.

Parties have agreed for PUC Distribution to return the revenue requirement impact of the tax loss carry-forward, and therefore, refund the impact of accelerated CCA through a tax loss carry-forward rate rider instead of the 1592 sub-account.

OEB staff notes that in the OEB's decisions for PUC Distribution's Substation 16 ICM and SSG project ICM, the OEB found that accelerated CCA should be excluded from the PILs component of the ICM revenue requirements and that the impact of accelerated CCA should be recorded in the Account 1592.[46] Specifically, in the decision and rate order for the Substation 16 ICM, the OEB stated "…all impacts of Bill C-97 should be considered at the same time when Account 1592 is disposed to minimize any complexities of having the CCA used to determine some rates based on different tax rules than other rates." Furthermore, in the decision for the SSG project ICM, the OEB noted that the accelerated CCA impact calculations arose during submission and therefore had limited testing. The OEB concluded that it was appropriate to exclude the impact of accelerated CCA from the calculation of the ICM revenue requirement and continue to record the impact of accelerated CCA in Account 1592 for all capital projects, including the SSG project.

In OEB staff's view, including the impact of accelerated CCA in the tax loss carry-forward does not contradict the OEB's Substation 16 and SSG project ICM decisions. In those decisions, the OEB determined that the accelerated CCA impact for the Substation 16 and SSG project would be recorded in the 1592 sub-account. However, the OEB did not decide on the form and manner in which the accelerated CCA impact would be disposed, if disposed.

OEB staff believes that there is one main difference between refunding the revenue requirement impact of the tax loss carry-forward through a tax loss carry-forward rate rider versus through the disposition of the 1592 sub-account and resulting Group 2 rate rider. The difference would be that the 1592 sub-account would be subject to a true-up for any under or over-collections from the approved amount when it is transferred to Account 1595, whereas a tax loss carry-forward rate rider would not. However, OEB staff believes that generally, any under or over-collection should not be material and therefore, the total accelerated CCA impact returned to ratepayers would generally be the same whether it is returned via a tax loss carry-forward rate rider or via the disposition of the 1592 sub-account. Therefore, OEB staff does not take issue with the

[46] EB-2019-0170 Substation 16 ICM Decision and Rate Order, April 16, 2020, p.12 and EB-2020-0249/EB-2018-0219 SSG Project ICM Decision and Order, April 29, 2021, p.16

agreed upon treatment of the 1592 sub-account.

Treatment of Tax Loss Carry-Forward

OEB staff notes that the typical regulatory treatment for tax loss carry-forwards would be to apply one-fifth[47] of the tax loss carry-forward to the test year taxable income, to amortize the application of the tax loss carry-forward into PILs over the IRM term. In this proceeding, parties have agreed to return the revenue requirement impact of the tax loss carry-forward through a one-year rate rider. OEB staff notes that the agreed upon method would return the impact of the tax loss carry-forward to ratepayers sooner than compared to applying an amortized amount to the test year taxable income. OEB staff does not take issue with this approach.

## Issue 5.0 Other

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

OEB staff supports the parties' agreement of an effective date of May 1, 2023.

PUC Distribution filed its application by the established deadline (i.e., August 31, 2022) for distributors rebasing in 2023 for rates effective May 1, 2023.[48] The only delays in this proceeding were a result of extension requests for the filing of the settlement proposal.

OEB staff submits that given the unique and complex matters addressed as part of the settlement proposal, the requests for additional time to arrive at a complete and robust full settlement proposal was reasonable.

The settlement proposal further notes that should a decision and rate order not be received by May 1, 2023, PUC Distribution would be permitted to recover such lost revenue between May 1, 2023 and the implementation date, if required.

OEB staff submits that PUC Distribution should be allowed to recover any forgone revenue between its current rates and new rates effective May 1, 2023, if required.

### Issue 5.2 – Are the amounts proposed for inclusion in rate base for the Incremental Capital Module approved in EB-2019-0170 and the proposed treatment of the associated true-up appropriate?

As noted under Issue 2.0 of this submission, the parties have agreed to the inclusion of the net book value for the Substation 16 project into rate base, including the additional

[47] Representing the number of years between rebasing applications
[48] OEB Letter, Applications for 2023 Electricity Distribution Rates

costs incurred. The Substation 16 ICM was initially approved by the OEB as part of PUC Distribution's 2020 IRM application.[49] The OEB approved PUC Distribution's Substation 16 ICM with an associated estimated cost of $4.7 million. Substation 16 was expected to be in-service in 2020.

In its current 2023 cost of service application, PUC Distribution stated that after consideration of the impacts related to the COVID-19 pandemic, it decided to delay construction of Substation 16. Ultimately, the project was substantially completed in 2021 as opposed to 2020 at a revised total cost of approximately $6.0M.[50] The table below outlines the differences in costs.

**Table 5: Variance Analysis of ICM Costs for Substation 16[51]**

| Item | Variance ($) |
|---|---|
| Construction Tender | 608k |
| Environmental Cleanup | 160k |
| Duct Banks and Road Restoration | 327k |
| COVID Related Expenses | 176k |
| Multiple Small Miscellaneous | 20k |
| **Total** | **1.29M** |

OEB staff does not take issue with the inclusion of the full net book value for the Substation 16 project in PUC Distribution's rate base.

PUC Distribution tendered the construction of the Substation 16 project provincially. The lowest bidder's price was $608k higher than the estimated construction cost that was part of the ICM application. OEB staff submits that this increase is reasonable as PUC Distribution selected the lowest bidder. The environmental clean-up costs are reasonable due to new information found during the construction process. The duct bank and road restoration cost increases are reasonable as the original estimate was based on a previous substation design and costs were updated during construction. Finally, COVID-19 related costs were incurred due to delaying the project by a year to ensure critical components were delivered, labour resources were available, and the safety situation locally was acceptable. OEB staff does not take issue with including COVID-19 related costs for recovery from the test year and onwards as the OEB has

[49] EB-2019-0170
[50] PUC Distribution requested the full $6,020,119 be included in rate base.
[51] See Exhibit 2, pages 58-59 for more information on the additional expenditures.

indicated that it expects LDCs to reflect revised operating conditions considering the COVID-19 pandemic into its rates when it rebases.[52]

True-Up

OEB staff does not object to the ICM true-up in the context of settlement. Parties have agreed to return $179,239 to ratepayers for the ICM true-up.[53] Parties agreed that for the purposes of the ICM true-up calculation, the half year rule will apply in the first year of the ICM and that the first year was 2021, instead of 2020, to reflect the year the Substation 16 project went in-service. The full cost for Substation 16 was used to recalculate the revenue requirement for the purposes of the ICM true-up calculation.

The OEB *Report of the Board: New Policy Options for the Funding of Capital Investments: The Advanced Capital Module* (ACM Report) states:

> If the Board approves the true-up of any variances for ACM/ICM projects at the next cost of service application, the recalculated revenue requirement relating to the actual ACM/ICM capital expenditures should be compared to the rate rider revenues collected in the same period, plus the carrying charges in the respective sub-accounts.[54]

The ACM Report notes that, where there is a material difference in the ICM true-up calculation, the OEB may direct that the over/under collection be refunded to/recovered from ratepayers.

OEB staff does not object to the ICM true-up in the context of settlement, but notes that COVID-19 related expenses were included in the Substation 16 recalculated revenue requirement for the purposes of the true-up calculation instead of recording it in Account 1509.[55] The OEB initiated the COVID-19 consultation so that it could address, on an industry-wide basis, under what circumstances utilities would qualify for incremental relief associated with the COVID-19 pandemic. In the OEB's COVID-19 Report resulting from the consultation, the OEB specifically established Account 1509, Sub-account Capital-related Revenue Requirement Impacts to record to record the capital-related revenue requirement impacts (costs and savings) associated with the pandemic.[56] Therefore, OEB staff submits that including the Substation 16 COVID-19 related costs

[52] *Report of the OEB, Regulatory Treatment of Impacts Arising from the COVID-19 Emergency*, EB-2020-0133, June 17, 2021, p. 38
[53] EB-2022-0059, Settlement Proposal, p. 47
[54] EB-2014-0219, ACM Report, September 18, 2014, pp. 26-27
[55] EB-2022-0059, Interrogatory Responses, Staff-24g and h
[56] Report of the OEB, Regulatory Treatment of Impacts Arising from the COVID-19 Emergency, June 17, 2022, EB-2020-0133, p.42

in the 1509 sub-account would have been more appropriate than including it in the ICM true-up mechanism.

OEB staff acknowledges that in the Decision and Order for Energy+'s ACM, the OEB stated that:[57]

> …the OEB recognizes that it is approving some incremental COVID-19 costs associated with health and safety measures at the job site. While it is true that COVID-19 related capital costs can be recorded in Account 1509 for disposition later, the ACM process also allows a utility to bring forward all qualifying capital costs for recovery if prudently incurred. Contrary to the submissions of SEC, VECC and OEB staff, the OEB finds it appropriate to include COVID-19 costs in assessing the reasonableness and prudence of Energy+'s proposed $1.65 million cost increase for the Southworks facility.

OEB staff notes that the circumstances in the Energy+ ACM proceeding were different than the circumstances in this proceeding. In the Energy+ proceeding, the OEB was approving funding for an ACM in an IRM year. If the COVID-19 costs were included in Account 1509 instead, Energy+ would be requesting for recovery of the amount at a later date. In the current application, the recovery of the Substation 16 COVID-19 related costs would be addressed in this proceeding, regardless of whether it is recovered through the ICM true-up mechanism or the 1509 sub-account.

OEB staff notes that in response to interrogatories, PUC Distribution stated that the COVID-19 costs would be ineligible for recovery in Account 1509, and therefore, were recorded using the traditional accounting methods.[58] As noted above, OEB staff is of the view that the COVID-19 costs related to Substation-16 should not have been included in the ICM true-up calculation. However, this was the treatment agreed to by parties when PUC Distribution had indicated they would be ineligible for recovery for the amount if it were recorded in Account 1509. Therefore, in the context of settlement, OEB staff does not take issue with the agreed upon ICM true-up calculation.

### Issue 5.3 – Are the amounts proposed for inclusion in rate base for the Incremental Capital Module approved in EB-2018-0219/EB-2020-0249 and the proposed treatment of the associated true-up appropriate?

As noted previously, the OEB-approved ICM funding amount for the SSG project was $24.8M. In the settlement proposal, the total SSG project is forecasted to be $24.5M. OEB staff has no issue with the total capital cost of the SSG project as forecasted in the

[57] EB-2021-0018, Decision and Order, December 21, 2021
[58] EB-2022-0059, Interrogatory Responses, Staff-24g

settlement proposal.

As discussed under Issue 1.1, the SSG project was initially expected to be fully completed and in service by December 31, 2022. However, the estimate of project spend was updated to a net project spend of $9M in 2022 and the remaining $15.5M in 2023. Project delays were encountered, with the largest contributing factor being the COVID pandemic and the "ripple effect on availability of equipment, materials and resources."[59] This update was provided by PUC Distribution at the time of its responses to pre-settlement clarification questions.

The parties agreed that until PUC Distribution's next rebasing application, the revised 2023 net book value for the SSG project will be recovered outside of base rates through the SSG Project Recovery Mechanism. The SSG Project Recovery Mechanism removes the entire SSG project (comprised of 2022 net book value and 2023 capital additions) from PUC Distribution's rate base and calculates separate rate riders to recover the SSG revenue requirement for the 2023 to 2027 period.[60] Removing the SSG project from rate base is solely for the purpose of allowing an alternate mechanism to recover the SSG project during 2023 to 2027. As agreed to in the settlement proposal, the remaining net book value of the SSG project related costs that should be added to PUC Distribution's rate base at its next rebasing is equal to the actual costs up to a maximum of the forecasted costs. Any increase in costs from what has been forecasted in the settlement proposal, which will not be recovered through the SSG Project Recovery Mechanism, will be subject to a prudence review if PUC Distribution seeks to add that additional amount to rate base at its next rebasing.[61]

The parties agreed that a mechanism was required to help PUC Distribution make up some of the shortfall in revenue requirement because of the SSG project delay given its relative size and the fact the OEB has approved the project. The shortfall in revenue requirement is due to application of the half-year rule to additions placed in service in the test year. Without such a mechanism, PUC Distribution would be forgoing a half year's worth of revenue requirement impact on $15.4M in additions between 2024 and 2027.

The parties agreed that the SSG Project Recovery Mechanism is not meant to be precedent setting and is being agreed to in the context of a full settlement, and is appropriate because of the SSG Project's relative size, unique circumstances related to the project delay, and the previous approval by the OEB in EB-2020-0249/EB-2018-

[59] EB-2022-0059, Settlement Proposal, Appendix F – Pre-Settlement Clarification Questions, CCC-55
[60] See settlement proposal, Table I for 2023 to 2027 rate riders and associated effective dates.
[61] EB-2022-0059, Settlement Proposal, p. 57

0219.[62]

OEB staff submits that based on the size of the project, the unique circumstance of the project timing, and the OEB's previous approval of the SSG ICM, it is fair for PUC Distribution not to be exposed to a shortfall in the recovery of the SSG project costs due to the half-year rule. OEB staff is of the view that OEB policy regarding the application of the half-year rule for ICM/ACM projects can be applied to the SSG project. In the ACM Report, the OEB determined that the half-year rule should not apply so as not to build a deficiency for the subsequent years of the IR plan term. The OEB also decided that the half-year rule would apply in the final year of the Price Cap IR plan term.[63] As noted in the settlement proposal, the magnitude of the deficit due to applying the half-year rule to the SSG project could result in PUC Distribution underearning over the 2024-2027 period and substantially impair its cash flow. The SSG Recovery Mechanism allows PUC Distribution to recover the revenue requirement of the SSG project using the half-year rule only in 2023, then allows PUC Distribution to recover the full year SSG project revenue requirement in 2024 to 2027. Therefore, OEB staff does not oppose the mechanism used to keep PUC Distribution whole in the context of a complete settlement.

In the settlement proposal, the parties have agreed to an asymmetrical true-up mechanism, to the benefit of ratepayers, for the SSG project. An associated variance account is established (Account 1508 – Other Regulatory Assets, Sub-account SSG Project Recovery Mechanism Variance Account).[64] After the consideration of the sub-account, PUC Distribution's net recovery on the SSG project will be the lower of

(a) total rate riders collected from May 1, 2023 to April 30, 2028 and
(b) the sum of the 2023 to 2027 revenue requirements, where the annual revenue requirement is the lower of i) the recalculated revenue requirement based on actual SSG project capital costs and in-service dates, and ii) the settled forecasted revenue requirement used to calculate the SSG Recovery Mechanism Rate Rider

OEB staff supports the establishment of this account as it is asymmetrical to the benefit of rate payers. The mechanics of the account work such that actual costs, up to a maximum of the costs forecasted in the settlement proposal, are recoverable from ratepayers. Furthermore, there is an asymmetrical true-up in billing collections, where PUC Distribution may under-collect but not over-collect from customers as compared to the settled amount. OEB staff reviewed the methodology and the accounting order for

[62] EB-2022-0059, Settlement proposal, p. 51
[63] *Report of the OEB, New Policy Options for the Funding of Capital Investments: The Advanced Capital Model*, EB-2014-0219, September 18, 2014, p.23
[64] See Settlement Proposal, Appendix I for the associated Accounting Order.

this sub-account and has no concerns.

True-Up

In the settlement proposal, the parties have agreed to return $485,488 to ratepayers for the SSG ICM true-up. This recalculated revenue requirement in the ICM true-up calculation reflects the updated forecasted 2022 cost of $9M and the application of the half-year rule. OEB staff reviewed the ICM true-up calculation and supports the refund to customers.

### Issue 5.4 - Has PUC Distribution Inc. responded appropriately to the OEB's directions/orders from its stand-alone Incremental Capital Module application relating to the Sault Smart Grid Project (EB-2018-0219/EB-2020-0249)?

Based on the updated expected in-service timing of the SSG project, OEB staff submits that PUC Distribution has responded appropriately to the OEB's directions/orders from its ICM application relating to the SSG project.

The table below outlines the orders and directions in the OEB's decision in the ICM application related to the SSG project.[65]

**Table 6: Orders and Directions from ICM Application – SSG Project (EB-2020-0249/EB-2018-0219)**

| List of Orders and Directions from ICM Application – SSG Project |
| --- |
| PUC Distribution shall file its next rebasing application for 2023 rates no later than August 31, 2022 |
| PUC Distribution shall file an updated Distribution System Plan at the time of its next rebasing application which demonstrates how the SSG project is being accommodated through the re-prioritization of other capital expenditures |
| PUC Distribution shall provide a detailed report as part of its next rebasing application, which compares the SSG project costs and benefits as implemented to what was forecast in this application. |
| PUC Distribution shall file all available information on the proposed project performance metrics that it intends to track, along with proposed targets, in its next rebasing application. This shall include an appropriate metric and targets to symmetrically link the VVO performance of the project to PUC's allowable ROE for the project. |
| PUC Distribution shall post on its public website a report, within 18 months of project completion, and with annual updates for 10 years thereafter which shows the actual benefits of the SSG project, broken down by customer class. |
| Any EPC Contract liquidated damages resulting from "performance" or "delay" shall be used to reduce the project capital cost and would be settled at the time of the next rebasing. |
| PUC Distribution shall include the approved ICM rate riders on its proposed tariff for its 2022 rate application. |

[65] EB-2020-0249/EB-2018-0219, Decision and Order, Section 5, p. 24, April 29, 2021

PUC Distribution filed its current rebasing application on August 31, 2022, therefore, the first direction listed in the table has been addressed. The second line item was addressed as PUC Distribution filed an updated Distribution System Plan demonstrating how the SSG project is being accommodated through the re-prioritization of other capital expenditures (this was discussed by OEB staff under Issue 1.1 of this submission). Further, the last item was addressed as part of PUC Distribution's 2022 IRM application.[66]

The settlement proposal addresses the outstanding items. Subject to the adjustments expressly noted in the settlement agreement, the parties agreed that PUC Distribution responded appropriately to the OEB's directions and orders from its ICM application relating to the SSG project.

***Report of SSG Costs and Benefits: Implemented v. Forecast in ICM Application***

Parties have agreed to roll over this commitment. Parties agreed that PUC Distribution will file a detailed report comparing the SSG project costs and benefits as implemented compared to the forecast within 18 months of the completion of the SSG project.[67] PUC Distribution also agreed to retain one or more independent third-parties to undertake a review of the VVO savings from the SSG project. The specific matters to be addressed as part of this report are outlined in the settlement proposal.[68]

The independent review of the VVO savings from the SSG project will be filed at the time of PUC Distribution's next rebasing application.

As the SSG project is not in-service at the time that the parties reached their agreed-upon settlement, OEB staff submits that the parties' agreement that PUC Distribution provide a detailed report reviewing costs and benefits as implemented to what was forecast within 18-months of the completion of the SSG project is reasonable. OEB staff also supports the agreed-upon third-party review. OEB staff submits that the timeline for both reports is also reasonable.

***Proposed Project Performance Metrics and Proposed Targets; Metric and Target to Symmetrically Link Between VVO Performance to PUC Distribution's Allowable ROE for the SSG***

[66] EB-2021-0054, Decision and Rate Order, p.10
[67] This report will be filed on the record of this proceeding.
[68] EB-2022-0059, Settlement Proposal, pp. 58-59

Project Metrics and Targets

Parties have agreed to the SSG project performance metrics and targets as outlined in PUC Distribution's supplementary filing on October 26, 2022.[69] The metrics are broken down into three general categories: (1) greenhouse gas emissions reduction, (2) improved asset utilization and increased (energy) efficiency, and (3) increased reliability and resiliency.

PUC Distribution noted that any other future metrics or key performance indicators are expected to evolve over time with new data collection.

OEB staff submits that PUC Distribution has responded to the OEB's previous order to file available information on the proposed project performance metrics that it intends to track, along with proposed targets as part of its rebasing application.

SSG VVO Linkage to ROE

Parties have agreed that if PUC Distribution achieves VVO savings that are above or below the 2.70% VVO target, the utility will symmetrically collect or refund the percentage difference on its ROE for the SSG project based on a linear formula for each year between 2023-2027. While the parties have agreed to this formula in principle, the parties did not agree to how this formula will be applied to 2023 (or if necessary 2024), as PUC Distribution will not be able to measure VVO savings until November 1, 2023. The parties agreed that the amount to be recorded in 2023, if any, can be decided at the time of disposition of the account.

OEB staff submits that the parties' agreement to establish Account 1508 Other Regulatory Assets, Sub-account Incremental VVO Costs or Savings[70] satisfies the OEB's order to link the VVO performance of the SSG with PUC Distribution's allowable ROE for the project. OEB staff submits that this DVA symmetrically allocates risk/reward to PUC Distribution through linking the actual VVO savings to the VVO target.

OEB staff also submits that it is reasonable to assess the appropriate amount for 2023 at the time of disposition as the OEB will have better information on the actual results of the VVO savings, and access to the third-party report reviewing the VVO consumption savings methodology.

[69] EB-2022-0059, Appendix H_Sault Smart Grid_Performance Metrics_OEB Order No. 6_20221026 or Settlement Proposal, Appendix J
[70] EB-2022-0059, Settlement Proposal, Appendix G – Accounting Order

OEB staff notes that PUC Distribution addressed the causation, materiality and prudence criteria for establishing new accounts in its interrogatory responses.[71] Further, OEB staff reviewed the draft accounting order attached to the settlement proposal and has no concerns.

***Report on PUC Distribution's Public Website Showing Actual Benefits of the SSG Project***

Parties have agreed to roll over this commitment. Parties agreed that PUC Distribution will post annual updates at the same time as the Recording and Record-keeping Requirements filing deadline of April 30th annually. The first report will be provided within 18 months of project completion and then yearly by April 30th, thereafter.

OEB staff does not take issue with this proposal and submits that this agreement satisfies the OEB's order from the SSG ICM application.

***EPC Liquidated Damages***

As part of the OEB's decision on the ICM application for the SSG Project, the OEB directed that any EPC Contract liquidated damages resulting from 'performance' or 'delay' shall be used to reduce the project capital cost and would be settled at the time of the next rebasing.

In the current proceeding, parties agreed that PUC Distribution responded appropriately to this OEB direction by proposing to create the new liquidated damages DVA as outlined in Appendix H of the settlement proposal (Account 1508 Other Regulatory Assets Sub-account SSG EPC Contract Liquidated Damages).

OEB staff submits that PUC Distribution has responded appropriately to the OEB's prior order. PUC Distribution proposed to establish a new sub-account to record the revenue requirement impact of any EPC contract liquidated damages received. This sub-account is intended to ensure that the revenue requirement impact of liquidated damages, if any, will be refunded to ratepayers. While this sub-account will have an effective date of May 1, 2023, any liquidated damages received related to the SSG project will be recorded in the sub-account even if they were received or become due before the effective date of the sub-account.

PUC Distribution addressed the causation, materiality and prudence criteria for establishing new accounts in its interrogatory responses.[72] While there were no

[71] EB-2022-0059, Interrogatory Responses, 9-Staff-110
[72] EB-2022-0059, Interrogatory Responses, 9-Staff-111

liquidated damages received or expected to date and it is unclear whether the liquidated damages will be material, PUC Distribution stated that if the liquidated damages provisions of the EPC Contract are triggered as a result of VVO savings not meeting target or if the project is delayed, the resulting amounts are likely to exceed the materiality threshold.[73] OEB staff reviewed the draft accounting order attached to the settlement proposal and has no concerns.

## Conclusion

For the reasons provided above, in the context of the overall settlement, OEB staff supports the settlement proposal as agreed to by the parties to this proceeding.

*All of which is respectfully submitted*

[73] Ibid. and EB-2022-0059 Settlement Proposal, p.59