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BY EMAIL

November 10, 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
Canadian Niagara Power Inc.
2024 Distribution Rate Application
OEB File Number: EB-2023-0009**

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

Yours truly,

Original Signed By

Urooj Iqbal
Case Manager

Encl.

cc: All parties in EB-2023-0009



ONTARIO ENERGY BOARD

OEB Staff Submission

Canadian Niagara Power Inc.

2024 Distribution Rate Application

EB-2023-0009

November 10, 2023

Introduction

Canadian Niagara Power Inc. (CNPI) filed an incentive rate-setting mechanism (IRM) application with the Ontario Energy Board (OEB) on August 17, 2023, under section 78 of the *Ontario Energy Board Act, 1998* seeking approval for changes to its electricity distribution rates to be effective January 1, 2024.

Consistent with the Chapter 3 Filing Requirements, CNPI applied the Price Cap IR adjustment factor to adjust the monthly service charge and distribution volumetric rate during the incentive rate-setting years. OEB staff has no concerns with CNPI's proposed price cap adjustment.

In its 2024 Rate Generator model, CNPI applied 2023 inflation rate to its projected interest from January 1, 2023 to Dec 31, 2023¹. Retail Transmission Service Rates (RTSRs) were also updated in the Rate Generator model, based on preliminary Uniform Transmission Rates (UTRs²) and proposed Sub-transmission rates, to recover the wholesale transmission rates charged by the Independent Electricity System Operator (IESO) and host distributor, Hydro One Networks Inc. (Hydro One). CNPI has reviewed and confirmed the Rate Generator model and shown no concerns with the adjustments to its RTSRs and UTRs.

OEB Staff Submission

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

- Group 1 Deferral and Variance Accounts (DVAs)
- Lost Revenue Adjustment Mechanism Variance Account (LRAMVA)
- Z-factor claim – December 2022 Windstorm

Group 1 Deferral and Variance Accounts

CNPI requested disposition of its December 31, 2022 Group 1 DVA balances in the debit amount of \$1,091,348 on a final basis over 12 months period. This includes interest projected to December 31, 2023. The components of this balance are shown in Table 1. The Group 1 account balances exceed the OEB's \$0.001/kWh threshold for disposition³. The OEB most recently approved the disposition of CNPI's Group 1 account balances on a final basis, as of December 31, 2021, as part of its 2023 IRM Application proceeding.

¹ Letter of the OEB - 2024 Inflation Parameters, June 29, 2023

² OEB Letter, 2024 Preliminary Uniform Transmission Rates and Hydro One Sub-Transmission Rates, EB-2023-0222, September 28, 2023

³ Chapter 3 Filing Requirements, section 3.2.6

Table 1: Group 1 DVA Balances

Account Name	Account Number	Principal Balance (\$) A	Interest Balance (\$) B	Total Claim (\$) C=A+B
LV Variance Account	1550	48,314	2,985	51,299
Smart Metering Entity Charge	1551	(79,381)	(4,456)	(83,837)
RSVA - Wholesale Market Service Charge	1580	922,075	61,072	983,147
Variance WMS – Sub-account CBR Class B	1580	(48,185)	(3,539)	(51,724)
RSVA - Retail Transmission Network Charge	1584	202,735	14,987	217,722
RSVA - Retail Transmission Connection Charge	1586	4,903	262	5,165
RSVA - Power	1588	(104,314)	13,526	(90,788)
RSVA - Global Adjustment	1589	3,258	(4,264)	(1,006)
Disposition and Recovery/Refund of Regulatory Balances (2020)	1595	172	61,198	61,370
Totals for all Group 1 accounts excluding RSVA – Global Adjustment		946,319	146,035	1,092,354
Totals for all Group 1 accounts		949,577	141,771	1,091,348

OEB Staff Submission

OEB staff supports CNPI's request to dispose of its December 31, 2022 Group 1 DVAs on a final basis. OEB staff has reviewed the 2022 DVA balances and the supporting evidence substantiating these balances. In OEB staff's opinion, the Group 1 DVA balances appear reasonable. OEB staff notes that CNPI has made a few principal adjustments in its GA Analysis Workform besides the typical adjustments in the workform such as adjustments due to the timing difference of unbilled versus actual revenue.

In its response to an OEB staff interrogatory⁴ regarding a principal adjustment of \$128,000 to Account 1589, CNPI explains that this principal adjustment is related to the

⁴ OEB Staff IR- 5b, p.9

portion of a GS>50kW customer billing correction which was billed in 2022 and has been updated to a reconciling item instead of a principal adjustment after CNPI's review of the GA Analysis Workform instruction. However, CNPI notes that this revised approach results in a delay in the disposition of the net credit balance associated with the 2022 impact of this Out of Period billing Adjustment. CNPI states that it would be open to including the amounts with the principal dispositions for 2022 (which would align with the treatment in the original application), if the OEB deems this appropriate. The OEB staff inquired CNPI about the method used to prorate the billing adjustment of a credit amount of \$128,000 into RPP and Non-RPP portions. In its response, CNPI explains that the RPP settlements were re-calculated with the corrected kWh for each month of 2022.

OEB staff notes that the GA Analysis Workform instruction states that a reconciling item for any billing corrections is needed as there is a misalignment between the general ledger balance and expected balance calculated in the workform and a principal adjustment would not be needed as the billing corrections have been correctly reflected in the general ledger of the respective years. OEB staff submits that it has no issue with the change in CNPI's approach regarding treatment of this item as a billing correction versus a principal adjustment.

Lost Revenue Adjustment Mechanism Variance Account (LRAMVA)

Distributors filing an application for 2024 rates are to seek disposition of all outstanding LRAMVA balances related to program savings related to Conservation First Framework programs or other conservation programs they delivered unless they do not have complete information on eligible program savings⁵. CNPI is not requesting the disposition of any LRAMVA balances related to these activities and did not request the ability to do so in a future proceeding since it disposed of its 2020 LRAMVA balances in its 2022 cost of service application.

OEB Staff Submission

OEB staff recommends that no further entries to the LRAMVA be permitted at this time, but that the LRAMVA not be discontinued, in the event that CNPI requests the use of the LRAMVA for a CDM activity in a future application, which the OEB can consider on a case-by-case basis. OEB staff is recommending this approach for all distributors who have disposed of all outstanding LRAMVA balances as part of their 2024 rate applications.

⁵ Chapter 3 Filing Requirements, section 3.2.6.1

Z-Factor**Storm Event**

On December 23, 2022, CNPI's service territory experienced a severe weather event, the severity and impact of which were unprecedented for CNPI. CNPI recorded more than 32,000 customer interruptions (which includes Eastern Ontario Power). CNPI indicated that many customers in Fort Erie and Port Colborne experienced more than one interruption during the storm and restoration.

CNPI was able to restore power to most customers by December 27, 2023. Some customers requiring repairs and Electrical Safety Authority approvals at their premises were affected for a longer period. Additionally, CNPI continued its efforts to repair and replace damaged assets into 2023, after the critical repairs and customer restoration was completed. To aid in restoring power, CNPI utilized its mutual assistance agreement with Welland Hydro and engaged several third-party contractors.

CNPI recorded total cost of \$1.93 Million related to the December 23, 2022 storm event and subsequent restoration efforts. The Table 2 below provides a breakdown of the costs CNPI incurred as a result of its restoration efforts.

Table 2: Breakdown of Capital and OM&A Cost

Cost Category	Capital Cost (\$)	O&M Cost (Regular-Time Labour) (\$)	O&M Cost (Recorded in Account 1572) (\$)	Total Cost (\$)
CNPI Labour (Regular)	88,548	78,778	-	167,326
CNPI Labour (Overtime)	48,357	-	258,887	307,244
Materials	144,632	-	-	144,632
LDC Mutual Aid Costs	61,932	4,128	174,729	240,789
Contracted Services- Line Services	549,753	-	271,527	821,280
Contracted Services- Excavation and Tree Removal	59,029	-	131,839	190,868
Other	2,865	-	55,132	57,997
Total	955,116	82,906	892,114	1,930,136

Out of the total storm related cost of \$1.93 Million CNPI seeks a cost recovery of \$984,114, which consists of incremental OM&A costs of \$892,114, interest cost of \$44,000, and a revenue requirement cost of \$48,000. The revenue requirement claim is

based on the incremental capital cost of \$866,568 which includes labour (overtime), materials, LDC mutual aid costs, contracted services (line service and excavation and tree removal) and other costs shown in Table 2. CNPI has removed regular labour cost of \$88,548 associated with the event from its revenue requirement calculation as this cost is part of CNPI's base rate.

Table 3: Breakdown of Total Z-factor Claim

Category	Amount
OM&A Component Principal Balance	\$892,114
2023 Interest Forecast	\$44,000
Capital Expenditures Revenue Requirement	\$48,000
Total Z-Factor Claim	\$984,114

CNPI is requesting that the amount be allocated across all rate classes, in proportion to its last OEB-approved revenue requirement by rate classes and recovered through fixed-rate riders based on the most recently reported actual customer counts. CNPI proposed a disposition period of 12 months beginning January 1, 2024 and ending December 31, 2024. Chapter 3 of the OEB's [Filing Requirements for Electricity Distribution Rate Applications](#) (Filing Requirements) defines Z-factor events as unforeseen events that are outside the control of a distributor's ability to manage.⁶

The Filing Requirements state that a distributor must submit evidence to substantiate that the costs incurred meet the following eligibility criteria of causation, materiality, and prudence:

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

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

Prudence – The amounts must have been prudently incurred. This means that the distributor's decision to incur the amounts must represent the most cost-effective option (not necessarily least initial cost) for ratepayers.⁷

⁶ OEB's Filing Requirements For 2024 Rate Applications Chapter 3 Incentive Rate-Setting Applications, p. 22

⁷ Report of the Board on 3rd Generation Incentive Regulation for Ontario's Electricity Distributors, July 14, 2008, Appendix, p. 5

Causation

In the pre-filed evidence, CNPI states that all costs included in the Z-factor claim were directly related to the windstorm event. CNPI further notes that the event was outside of CNPI's control and confirmed that the amounts sought for recovery are outside of CNPI's base rates.

Incremental Capital Cost

In its application, CNPI states that in addition to poles, it replaced overhead wires (both primary and secondary) to restore the power.⁸ The capital costs are primarily related to work required to replace broken poles and conduct other work which would normally be capitalized under CNPI's typical capitalization practices. In its response to an OEB staff interrogatory,⁹ CNPI also discusses its policy for capitalization of labour charges. CNPI confirmed that it uses a "modified IFRS" accounting basis for capitalization of labour charges, whereby the amounts included in the calculation of the internal labour rates used for capitalization purposes are based on directly attributable costs (per IFRS), with separate rates being calculated and applied by each department. Directly attributable costs consist primarily of wages, payroll benefits, vehicle costs, professional dues, small tools and personal protective equipment.

In its response to an OEB staff interrogatory,¹⁰ CNPI mentions that it does not budget for storm related capital costs, so the costs that have been incurred are incremental with the exception of staff's regular time which has not been included in this Z-factor claim as mentioned above.

The Table 4 below shows breakdown of the total incremental capital cost of \$866,568, used to calculate the revenue requirement portion of the Z-factor claim, into different asset categories. CNPI explains that it amortizes all replaced assets over 45 years useful lives. This is consistent with the useful lives presented in Appendix 2-BB of CNPI's Chapter 2 Appendices filed in its 2022 Cost of Service application.

⁸ 2024 IRM Application, p. 30

⁹ OEB Staff IR- 9a, p.15

¹⁰ OEB Staff IR- 9c, p.16

Table 4: Details of the Replaced Assets¹¹

Asset/Equipment	Quantity	Estimated Net Asset Value (\$)	Useful Life (Years)
Poles	43	747,990	45
Overhead Conductors & Devices (OH C&D) - Primary	1,216	87,814	45
Overhead Conductors & Devices (OH C&D) - Secondary	2,944	30,764	45
		866,568	

In its response to an OEB staff interrogatory,¹² CNPI confirms and clarifies the net book value of the assets damaged during the storm was \$3,800, which was written off by CNPI in its accounting records.

OEB Staff Submission on Incremental Capital Costs

While there would have been storm-related capital costs for replacing the assets, OEB staff submits that CNPI has not substantiated in reply to an OEB staff interrogatory¹³ that all costs associated with poles replacement are incremental to its ongoing pole replacement program's budget. OEB staff notes that assets reaching their end of service life (and already due for replacement) would have higher probabilities of failing as a result of the storm or any adverse event. For example, poles with end-of-life conditions might need to be replaced due to a strong local wind gust that would not qualify for Z-factor treatment.

OEB staff notes that in the pole assessment schedule presented as part of CNPI's 2022 Cost of Service application¹⁴, 33.8% of the poles were rated as poor to very poor condition and were already budgeted for replacement in CNPI's base rate. Based on the pole assessment schedule, OEB staff submits that recovery of 66.2% of the cost associated with 43 poles replaced due to the windstorm (shown in Table 4 above) would be appropriate, and in lieu of better information, apply the same percentage of 66.2% to the OH C&D (primary & secondary) costs. This approach would be similar to what was

¹¹ OEB Staff IR-8b, p. 14

¹² OEB Staff IR- 8d, p. 14

¹³ OEB Staff IR- 9c, p. 16

¹⁴ EB-2021-0011, CNPI Exhibit 2, Summary of ACA Results, p. 110

done in Elexicon Energy's 2023 Z-factor application¹⁵, where the OEB did not allow cost recovery for certain poles that were expected to be replaced in the near term as outlined in Elexicon Energy's 2021 Distribution System Plan. If CNPI has more recent information as to the conditions of poles and OH C&D, OEB staff submits that such information should be disclosed in CNPI's reply. This would assist the OEB in arriving at a reasonable valuation of the incremental pole replacement cost for recovery.

Incremental OM&A Costs

In its application, CNPI claims total OM&A costs of \$892,114 related to the storm event, which are recorded in Account 1572 (Extraordinary Events Costs). In response to an OEB staff interrogatory¹⁶ CNPI provided Table 2 that shows the cost components underpinning the total OM&A costs of the Z-factor claim, which includes labour (overtime), LDC mutual aid costs, contracted service (line services and excavation & tree removal) and other OM&A costs.

The OM&A cost associated with CNPI's labour (overtime) is \$258,887. CNPI states that the storm response occurred during the statutory holidays. The requirement of the immediate response work attracted overtime premiums, sometimes for the entirety of the work provided in a day (taking into account that the storm related restoration work was also done during December 25th and 26th statutory holidays). The overtime premiums paid compensate responding contractors and CNPI's staff for prompt response during an inconvenient time, with relatively short notice.

The OM&A portion of the LDC mutual aid cost is \$174,729 which is associated with the restoration work provided by various mutual aid responders such as Cornwall Electric (an affiliated LDC of CNPI), Burlington Hydro, Welland Hydro, and Niagara Peninsula Energy. These mutual aid services were covered under the Ontario Mutual Assistance Plan (OSCOMAP). CNPI states that it does not have an active agreement with Niagara On The Lake Hydro, however, the invoicing was completed on terms consistent with those from the OSCOMAP¹⁷.

In response to an OEB staff interrogatory,¹⁸ CNPI identifies contracted services costs as one of the major components of the OM&A cost which includes both line services and excavation & tree removal services. The total contracted services cost under OM&A included in the Z-factor claim is \$403,366.

CNPI mentions that the other category under the OM&A cost recorded in Account 1572 (shown in Table 2) is a combination of meals and food items purchased as well as the

¹⁵ Decision and Order, EB-2022-0317, Elexicon Energy Inc., Z-factor Application for Rates and Other Charges to be Effective July 1, 2023, p. 9

¹⁶ OEB Staff IR- 9b, p. 16

¹⁷ OEB Staff IR- 10a, p. 18

¹⁸ OEB Staff IR- 9d, p. 16

hotel accommodations for crews along with some other miscellaneous costs.

OEB Staff Submission on Incremental OM&A Costs

Based on CNPI's evidence for the OM&A related Z-factor claim, OEB staff submits that the costs incurred as a result of the storm event qualify for the Z-factor treatment in accordance with the OEB's policy and practice. OEB staff acknowledges that the overtime premium was paid because the storm restoration period included statutory holidays.

Materiality

In the pre-filed evidence, CNPI states that the materiality threshold applicable to CNPI is 0.5% of the distribution revenue requirement, which is calculated as \$115,925 based on its OEB-approved revenue requirement of \$23,184,975 in CNPI's last cost of service application.

OEB Staff Submission on Materiality

OEB staff submits that CNPI's Z-factor request of \$984,114 exceeds the materiality threshold and would remain that way even if there are reductions in the incremental capital costs allowed.

Prudence

In its application, CNPI states that it acted in the interests of its customers to restore service as quickly as possible. It further explains that it deployed all available internal resources to the restoration effort, including many employees who had initially scheduled vacation and holidays, and issued as many of the required materials as possible directly from their inventory to minimize premiums for emergency purchases and expedited delivery¹⁹.

CNPI also mentions that with respect to external services it secured the services of other LDCs through mutual aid agreements. Other contractors that assisted with the restoration effort had existing contractual relationships with CNPI. Further, CNPI management and control room staff directly coordinated the activities of all contractors and other LDCs in order to ensure an efficient and productive approach to restoration of power. Non-operations staff, management team, and executives assisted with communications, and logistics to reduce crew and the third party down-time.

In its application, CNPI also mentions that it has a Business Continuity Plan²⁰ that is periodically updated and reviewed at the management level. The plan is designed to assist in the response to natural disasters, accidents, major outages, environmental

¹⁹ 2024 IRM Application, p. 34

²⁰ Electricity Distribution Rates Application, Attachment "F", Pg. 138

disasters, municipal emergencies and cyber-attacks. This plan is available to all staff both via CNPI's corporate intranet, and hard copy. For major outages, this plan covers responsibilities and procedures for all outage restoration and communication efforts, consolidates contact information for internal staff and key external agencies. In addition to the Business Continuity Plan, CNPI also has an internal procedures document that outlines roles and responsibilities during a major event. This document is a living document that focuses on direct current assignments for roles and responsibilities during major outages that the management team can follow on a daily basis during a major outage.

In an OEB staff interrogatory²¹, CNPI was asked to discuss any updates in business continuity plan after the last Z-factor claim was made in 2023 IRM application. In its interrogatory response, CNPI states that no significant updates have been made to the business continuity plan or the internal procedure since the last Z-factor claim. CNPI notes that the business continuity plan is intended to be a high-level corporate procedure document that is relatively general, and therefore does not need significant updates over time. Over the years, the updates to this plan have focused on updates to logistical information in the supporting schedules, for example updates to reflect the appropriate individuals and contact information for a given role. However, CNPI provides a list of changes in practice that were implemented during the December 2022 storm as outlined below:

- Incremental focus has been placed into deploying inside staff to support the logistics (specifically food delivery, accommodation arrangement for out-of-town contractors) of the storm response-reducing down time of internal and third-party crews in the field.
- Line staff have been broken up from their original crews in order to lead large groups of third-party contractors (i.e., to lead and support with local perspective, advise on CNPI's standards and protocols).
- Continuing the two- phased approach to storm reparation - initially focused on repairs and critical infrastructure replacement needed to restore power promptly to the majority of customers, with temporary repairs where appropriate. Phase 2 involves completing the necessary remaining asset replacements.

In response to an OEB staff interrogatory²², CNPI discusses that its emergency response planning is intended to assist CNPI in responding efficiently and safely to severe weather conditions. CNPI further clarifies that its emergency response planning does not assist CNPI's system to resist severe weather. It notes that the frequency, duration, and severity of inclement weather is the key and core driver of the response effort required and the associated financial impact of weather-related events which is why a review of recent history does not permit a meaningful comparison of one event to

²¹ OEB Staff IR-14a, p. 32

²² OEB Staff IR-14b, p. 32

another due to the key drivers mentioned above.

OEB Staff Submission on Prudence

OEB staff noted that CNPI called upon available internal and external resources to address the storm outages. OEB staff referenced CNPI's existing Business Continuity Plan and Mutual Aid Agreements. OEB staff also recognizes that CNPI acted promptly and restored power within a reasonable period. Based on the evidence CNPI provided in its application and interrogatory responses, OEB staff submits that CNPI has met the criteria of prudence.

Summary of Z-factor Cost Claim Recommendations

OEB staff acknowledges that CNPI incurred significant costs for its storm restoration efforts, and which were largely beyond CNPI's costs funded through distribution rates paid by ratepayers. OEB staff do not dispute the occurrence of the storm, or CNPI's efforts to fix its infrastructure and restore service to customers on an expeditious manner. However, OEB staff submits that the pole and overhead conductors & devices replacement costs should be part of CNPI's ongoing program budgets. Except for this adjustment, and based on the record in this application, OEB staff submits that the criteria for causation, materiality and prudence for the Z-factor claim are met.

~All of which is respectfully submitted~