CANADIAN NIAGARA POWER INC.
A FORTIS ONTARIO Company

November 24, 2023

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

Dear Ms. Marconi:

Re: EB-2023-0009 Canadian Niagara Power Inc. 2024 IRM Application
CNPI Reply Submission

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

Copies of the attached reply submission have also been provided to VECC, as well as OEB Staff.

Please direct any questions or concerns to the undersigned.

Sincerely,

Oana Stefan
Digitally signed by Oana Stefan
Date: 2023.11.24 15:42:42 -05'00'

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Encl.

cc: Shelley Grice, (VECC)
Katherine Wang, Lawren Murray (OEB Staff)

ONTARIO ENERGY BOARD

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

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

REPLY SUBMISSION

CANADIAN NIAGARA POWER INC.

EB-2023-0009

NOVEMBER 24, 2023

A. 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 rates to be effective January 1, 2024 (the "Application"). In its Procedural Order No. 1, the OEB approved Vulnerable Energy Consumers Coalition ("VECC") as an intervenor in the case.

In its application, CNPI proposed updated distribution rates in line with the Price Cap IR rate setting methodology[1]. CNPI proposed updated Low Voltage ("LV")[2] and Retail Transmission Service Rates (RTSRs)[3] in line with the methodology outlined in the Filing Requirements and the Rate Generator model. During interrogatories, OEB Staff updated CNPI's RTSRs to reflect preliminary Uniform Transmission Rates, which CNPI reviewed and agreed with[4]. The Application also contained proposals for the disposition of Group 1 Deferral and Variance Accounts ("DVAs"), the disposition of the Lost Revenue Adjustment Mechanism Variance Account ("LRAMVA"), and a Z-Factor Claim.

In accordance with Procedural Order No. 1, OEB Staff and VECC filed their submissions on November 10, 2023. OEB Staff filed a revised submission on November 17, 2023. VECC made submissions only regarding CNPI's Z Factor claim related to a December 23-25, 2022 snow and wind storm. OEB Staff made submissions on:

a. Group 1 DVAs;
b. LRAMVA; and
c. Z-Factor claim.

CNPI is providing reply submissions on the following issues:

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

[1] P.7, Application and Evidence in EB-2023-0009 dated August 17, 2023
[2] P. 13-14, ibid.
[3] P.8, ibid.
[4] P5, Interrogatory Responses in EB-2023-0009, dated October 27, 2023.

B. CNPI's REPLY SUBMISSIONS- IRM APPLICATION

a. Group 1 DVAs

CNPI proposed the disposition of its Group 1 DVAs as at December 31, 2022 with forecasted interest to December 31, 2023. The total balance of $1,271,136 (as updated during interrogatories) proposed for disposition exceeds the materiality threshold as calculated in the OEB's rate generator model[5]. CNPI proposed a disposition period of one year and followed the methodology in the rate generator model to calculate the proposed rate riders. CNPI's Account 1589 RSVA-Global Adjustment and Account 1588-RSVA Power were reconciled within the tolerance levels required by the OEB. CNPI identified an adjustment related to Account 1589 and informed OEB Staff that this has been updated to a reconciling item instead of a principle adjustment after CNPI's review of the GA Analysis Workform instructions[6].

In its submissions, OEB Staff supported CNPI's request to dispose of the Group 1 DVAs on a final basis. OEB Staff submitted that it had no concerns with the correction proposed to Account 1589. Furthermore, OEB staff found the explanations for the principle adjustment to Account 1589, provided as interrogatory responses, to be reasonable and had no issue with the change in CNPI's approach regarding treatment of this item as a billing correction versus a principle adjustment[7].

VECC did not make any submissions with respect to DVA balances.

CNPI Reply Submissions

CNPI submits that the OEB should approve the final disposition Group 1 DVA Balances as at December 31, 2022, with forecasted interest to December 31, 2023. The balances in the accounts are reasonable, and have been reconciled within the appropriate limits, where required. The OEB should approve CNPI's proposal to dispose the balances through rate riders applicable for one year. CNPI notes that the DVA balances in Table 1 of the OEB Staff submission correctly represent the balances applied for in the initial Application, however CNPI submits the appropriate balances are those submitted with the Rate Generator filed with the interrogatory responses (total Group 1 balance of $1,271,136 excluding LRAMVA).

b. LRAMVA

In its Application, CNPI noted that its LRAMVA account as of December 31, 2020 was disposed in its 2022 cost of service application. During the reply submissions in its 2023 Incentive Rate-Setting Application, CNPI requested and the Board Approved, that CNPI would be eligible to bring forward further LRAMVA balances related to 2021 CDM savings in a future application, subject to CNPI forgoing the associated carrying charges[8].

CNPI does not have any rate-funded CDM Programs or Local Initiatives Program activities. As such, the balance being requested for disposition relates to Conservation First Framework (CFF) program persistence into 2021. CNPI calculated a total disposition of $46,723. As CNPI rebased its rates for 2022,

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[5] CNPI_2024 IRM_Rate Generator Model_20231027 filed on October 27, 2023 with Interrogatory Responses
[6] P.8, Interrogatory Responses in EB-2023-0009, dated October 27, 2023.
[7] P.3, OEB Staff Submission dated November 17, 2023.
[8] P 15, Application and Evidence in EB-2023-0009, dated August 17, 2023.

CNPI understands, in accordance with section 3.2.7.1, that no further persistence is expected, and no prospective disposition into future years is being requested[9].

OEB Staff supported the disposition as proposed. OEB Staff recommended that no further entries be permitted into the LRAMVA at this time. OEB Staff recommended that the LRAMVA not be discontinued in the event that CNPI requests the use of the LRAMVA for any new CDM activity in the future[10].

VECC did not make any submissions on the LRAMVA.

CNPI Reply Submissions

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

CNPI agrees with OEB Staff's submission regarding the disposition of the account, as well as the continuation of the LRAMVA account.

c. Z-Factor Claim

In its Application and Evidence, CNPI submitted a Z-Factor claim for costs to restore power during a severe weather event that occurred on December 23, 2022. In its application CNPI outlined its total storm costs of $1.93 Million. CNPI sought recovery of $984,114. CNPI has proposed to recover the claim amount through fixed monthly rate riders applicable for 12 months, to be allocated among its rate classes in proportion to the last OEB-approved revenue requirement[11].

CNPI's claim consists of incremental OM&A costs, interest costs and a revenue requirement cost. All components are only claimed for a one-year disposition[12].

The severe weather conditions included winds gusting up to 125 km/h, heavy snow fall, ice accumulation, and blowing snow leading to poor visibility. Municipal and regional states of emergency were declared, with emergency response agencies issuing severe cautions that travel would be dangerous, and emergency responders may not be able to respond. Roads, highways and border crossings were closed.[13] Despite the severity of the event, CNPI was able to restore power to most customers by December 27, 2022[14].

CNPI has organized its reply submissions to align with the OEB's Z Factor criteria of Causation, Materiality and Prudence. CNPI notes that both OEB Staff and VECC accepted that CNPI has met the requisite Causation, Materiality, and Prudence requirements of the Z-Factor Claim, and both OEB Staff and VECC

[9] P 27, Application and Evidence in EB-2023-0009, dated August 17, 2023.
[10] P. 4, OEB Staff Submissions in EB-2023-0009, dated November 17, 2023.
[11] P. 29-31, Application and Evidence in EB-2023-0009, dated August 17, 2023.
[12] Ibid.
[13] P 29, ibid.
[14] P30, ibid. Note that Application erroneously states the date of power restoration as December 27, 2023.

supported CNPI's proposed allocation and rate proposal for the recovery of the Z-Factor amounts from customers.

i. Causation

Incremental Capital Costs

OEB Staff submitted that while there would have been storm-related capital costs for replacing the assets, CNPI has not substantiated in reply to an OEB Staff interrogatory that all costs associated with pole replacement are incremental to its ongoing pole replacement budget. OEB Staff noted 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[15].

OEB Staff noted that the pole assessment schedule presented as part of CNPI's 2022 Cost of Service application, 33.8% of the poles were rated as poor or very poor condition and were already budgeted for replacement in CNPI's base rate. Based on this OEB Staff submitted that 66.2% of the cost associated with 43 poles replaced due to the windstorm would be appropriate, and in lieu of better information apply the same percentage of 66.2% to the OH C&D (primary & secondary) costs. OEB Staff indicated that this approach would be similar to what was done in Elexicon Energy's 2023 Z-factor application (the "Elexicon Case"), where the OEB did not allow cost recovery for poles that were expected to be replaced in the near term as outlined in Elexicon Energy's 2021 Distribution System Plan. OEB Staff invited CNPI to disclose any further information as to the conditions of poles and OH C&D in its reply submission[16].

CNPI Reply Submissions

In the OEB's Decision in the Elexicon case, the OEB required a 12% reduction to the capital claim submitted by Elexicon, representing the poles from the Z-factor identified as Poor and Fair-Poor condition[17]. The OEB cited prior evidence that Elexicon replaces "Poor" and "Fair-Poor" poles within 1-2 years[18].

CNPI does not agree with OEB Staff's interpretation of the CNPI ACA results that 33.8% of poles were already budgeted for replacement in CNPI's base rate, based on the results of CNPI's last Asset Condition Assessment (ACA). The poles listed in the ACA as "very poor" would be slated for replacement within 1-2 years. The poles listed under "poor condition" are only replaced if a Voltage Conversion("VC") or Line Rebuild project is slated in the area of the poor condition pole. CNPI further notes that 33.4% of the poles were rated as poor and only 0.4%[19] were rated as very poor in the Asset Condition Assessment from CNPI's last COS application. CNPI emphasizes that it did not plan to replace 33.8% of its poles within the current DSP period. This would be a very costly and disruptive pace of replacement.

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[15] P.10, OEB Staff Submission in EB-2023-0009, dated November 17, 2023
[16] P10-11, Ibid.
[17] CNPI notes that the capital portion of the Z-factor claim in the Elexicon case was different than CNPI's, as Elexicon proposed a Capital Z Factor Rate Rider effective until its next rebasing. Per Decision in EB-2022-0317, p5. CNPI is requesting only one year's capital recovery.
[18] P 12, EB-2022-0317, OEB Decision and Order.
[19] P. 11, EB-2021-0011- Exhibit 2 dated June 30, 2021

In response to the OEB Staff's question whether all costs associated with pole replacements are incremental to its ongoing pole replacement program budget, after further review, CNPI has determined that 7 of the 40 poles would have been replaced within the current DSP period (2022-2026). All seven of these poles would have been replaced as a result of a VC project. Three of the 7 would be replaced due to their asset condition and the remaining 4 due to updated standards for the VC project (ex: taller pole is required). None of the poles retired in the Z factor were identified as "very poor" condition, requiring immediate replacement within 1-2 years. For clarity, although Table 4 in OEB Staff's submission correctly indicates 43 poles were installed as part of the Z factor, only 40 poles were retired. Three new poles were added during the restoration efforts.

CNPI therefore submits that if the OEB requires an adjustment to the capital component of the claim, a reduction of 17.5% (7/40) would be more appropriate than the 33.8% proposed by OEB staff.

Incremental OM&A Costs

CNPI claimed 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 interrogatory, CNPI provided Table 2 that shows the cost components underpinning the total OM&A costs of the Z-factor claim, which included labour (overtime), LDC mutual aid costs, contracted service (line services and excavation & tree removal) and other OM&A costs[20].

The OM&A costs associated with CNPI's labour (overtime) is $258,887. CNPI stated that the storm response occurred during the statutory holidays. The immediate response work attracted overtime premiums (taking into account that the storm related restoration work was also done during December 25th and 26th statutory holidays).

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. These mutual aid services were covered under the Ontario Mutual Assistance Plan (OSCOMAP). CNPI stated it does not have an agreement with Niagara On The Lake Hydro, however, invoicing was completed on terms consistent with those from the OSCOMAP.[21]

CNPI identified contracted services costs as one of the major components for the OM&A costs 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.[22]

CNPI indicated that the other category under OM&A cost recorded in Account 1572 is a combination of meals and food items purchased as well as the hotel accommodations for crews along with some other miscellaneous costs.

Based on the evidence CNPI provided for the OM&A related Z-factor claim, OEB Staff submitted that the costs incurred as a result of the storm event qualify for the Z-factor treatment in accordance with OEB's

[20] CNPI response to Staff-9c, dated October 27, 2023.
[21] CNPI response to Staff-10, dated October 27, 2023.
[22] CNPI response to Staff 9, dated October 27, 2023.

policy and practice. OEB Staff acknowledged that the overtime premium was paid because the storm restoration period included statutory holidays.[23]

VECC commented on the assessment of vegetation management accomplishments. VECC noted that CNPI has developed a three-year cycle. CNPI manages its vegetation management program with O&M. CNPI's 2022 base rates included $545,000 in O&M for vegetation management. In 2022, CNPI recorded $588,000 in actual costs. Zones 1 in Port Colborne and Fort Erie were completed in 2022 as planned. Over the period from 2017 to 2021, CNPI spent on average $505,000 on Vegetation Management, consistent with budgeted amounts, and CNPI completed its Vegetation Management cycles as planned.[24]

VECC noted that CNPI should consider budgeting additional O&M and Capital dollars to deal with storm response. [25]

VECC indicated that the Z-factor claim meets the causation criterion.

CNPI Reply Submissions

CNPI agrees with the submissions of OEB Staff and VECC, that the OM&A costs included in the Z Factor claim meet the criteria of causation. The costs were directly related to the December 23, 2022 severe weather event, and incremental to the basis upon which rates were set. CNPI has demonstrated that the costs claimed exceed the levels of storm recovery budgets underpinning rates.

ii. Materiality

In its application, CNPI calculated a materiality threshold of $115,925, based on 0.5% of its 2022 revenue requirement. CNPI's Z factor claim of $984,114 exceeds this materiality threshold.

OEB Staff submitted that the Z-Factor claim is above the materiality threshold and therefore considered material, noting that it would remain that way even if there are reductions in the incremental capital costs allowed. [26]

VECC's submission concurred with CNPI's determination that the Z-Factor claim exceeds the materiality threshold.[27]

CNPI Reply Submissions

CNPI agrees with the submissions of OEB Staff and VECC, that the amount claimed exceeds the materiality threshold.

[23]P 11, OEB Submission dated November 17, 2023.
[24] P.4, VECC Submission dated November 10, 2023
[25] P.3, VECC Submission dated November 10, 2023.
[26] P12, OEB Staff Submission dated November 17, 2023.
[27] P.4, VECC Submission dated November 10, 2023.

iii. Prudence

OEB Staff noted that CNPI called upon available internal and external resources to address the storm outages. CNPI also 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 CNPI's inventory to minimize premiums for emergency purchases and expedited delivery. OEB Staff referenced CNPI's existing Business Continuity Plan and Mutual Aid Agreements. OEB Staff assessed the CNPI acted promptly and restored power within a reasonable period.[28]

VECC submitted that CNPI has demonstrated that CNPI has prepared for extreme weather events and acted promptly to restore power.

Both OEB Staff and VECC submitted that the criterion of prudence was met. [29]

CNPI Reply Submissions

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

iv. Allocation and Rate Design

CNPI has proposed a disposition of the Z factor claim on the basis of fixed monthly rate riders to all customer classes. The Z factor costs have been allocated consistent with the allocation of revenue requirement from CNPI's most recent COS rate application. CNPI has applied the most recently available year-end customer statistics to mitigate the potential for under- or over-collection of rate rider revenues. The approach has been previously approved by the OEB in at least two instances.[30]

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

CNPI Reply Submissions

CNPI agrees with VECC and OEB Staff's submissions that the rate design and cost allocation proposals are appropriate.

--All of which is respectfully submitted --

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[28] P. 10-11, OEB Staff Submission, dated November 17, 2023
[29] P.5, VECC Submission dated November 10, 2023.
[30] P34-35, Application and Evidence in EB-2023-0009 dated August 17, 2023.