



London Hydro Inc.
2024 IRM Application
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Filed: March 8, 2024

London Hydro Inc. ED-2002-0557

**2024 4th Generation Incentive Regulation Mechanism
Electricity Distribution Rate Application**

**Board File Number
EB-2023-0037**

ONTARIO ENERGY BOARD

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

**AND IN THE MATTER OF an application by London Hydro
Inc. for an Order or Orders pursuant to the Ontario Energy
Board Act, 1998, approving or fixing just and reasonable
distribution rates and other charges for the distribution of
electricity as of May 1, 2024.**

REPLY SUBMISSIONS OF LONDON HYDRO INC.

1. These are the submissions of London Hydro Inc. (LH) in reply to the submissions of OEB Staff. In its submission OEB Staff agreed with all the relief requested by LH with one exception; accordingly, LH's reply submission is focussed on addressing the one issue for which OEB Staff has suggested alternative relief.
2. In summary, LH respectfully submits that its proposed disposition of Accounts 1588 (Power), 1589 (GA), 1580 (CBR) and 1580 (WMS) for the years 2015 and 2016 should be implemented, and that OEB Staff's suggesting that alternative dispositions be considered should be rejected.

**THE DISPOSITION OF ACCOUNTS 1588 (POWER), 1589 (GA), 1580 (CBR) AND 1580 (WMS) FOR
THE YEARS 2015 AND 2016**

3. As described in the application LH is seeking to clear Accounts 1588 (Power), 1589 (GA), 1580 (CBR) and 1580 (WMS) (collectively referred to as the "Affected Accounts") on a final basis for the years 2015-2022, now that LH has received a credit adjustment from the IESO to rectify an error in how embedded generation was accounted for in the reconciliation of those accounts between LH and the IESO over that same period (the "Error").
4. OEB Staff agrees with LH's proposed clearance of the Affected Accounts for the years 2017 to 2022; it is only with respect to the years 2015 and 2016 that OEB Staff has proposed alternative relief.
5. The difference between LH's proposed disposition of the years 2017 to 2022 and its disposition of the years 2015 to 2016 is as follows:

- a) For the years 2017 to 2022 LH has applied the OEB's accounting guidance dated February 21, 2019, (the "Guidance Letter") when determining the amounts to dispose of in each of the Affected Accounts, with the result that, for those years, LH has employed what is commonly referred to "Method A" when determining the allocation of amounts across the accounts.
 - b) For the years 2015 and 2016 LH has used what is commonly referred to as "Method B" when determining the allocation of amounts across the account, a method that prevailed prior to the issuance of the OEB's Guidance Letter.
6. LH used Method A for the years 2017 to 2022 because the Guidance Letter providing direction on the use of Method A was issued to LH before the Affected Accounts for the years 2017 to 2022 were disposed of on a final basis. LH did not bring forward the Affected Accounts for years 2017, 2018 and 2019 for disposition on a final basis until December 1, 2020, as part of LH's 2021 IRM Proceeding, and had assembled and maintained the necessary data to seek disposition for those years based on Method A per the OEB's Guidance Letter. Similarly, the Guidance Letter predates the use of the Affected Accounts in 2020, 2021 and 2022 such that LH always anticipated the use of Method A for those years.
 7. In contrast, the Affected Accounts for the 2015 to 2016 period were disposed of on a final basis using Method B, with the 2016 balances having been disposed of on a final basis during LH's 2018 IRM Application filed on October 4, 2017, approximately 16 months before the OEB's Guidance Letter with respect to Method A was issued. It was not until October 12, 2022¹, approximately 5 years after LH had cleared the Affected Accounts to the end of 2016 on a final basis, that the Error was identified.

METHOD B REMAINS THE APPROPRIATE METHODOLOGY FOR LH'S 2015 AND 2016 CLEARANCES

8. It is LH's respectful submission that the narrow purpose of retroactively adjusting the clearances in 2015 and 2016 is to correct the Error. The purpose does not include changing the Board approved methodology that prevailed at the time those accounts were disposed of on a final basis.
9. The Error relates specifically and solely to the accuracy of the data that underpinned LH's reconciliation between itself and the IESO. As described in the application, embedded generation within the LH distribution system that should have been eliminated from the

¹ EB-2022-0048, Application filed October 12, 2022, page 24

calculation was inadvertently included in the reconciliation.² The Error is not related to Method B itself, either in its formulation or in its application.

10. By correcting the data-based Error within the Method B based calculation for 2015 and 2016 LH can replicate the disposition results that should have happened when the Affected Accounts were finally disposed of for the years 2015 and 2016 during LH's application for 2018 rates.
11. OEB Staff's position is that LH should not just correct the Error within the 2015 and 2016 dispositions; OEB Staff is suggesting that LH should go back and change the methodology used to calculate the disposition from Method B to Method A (or a simplified attempt to replicate Method A given the unavailability of the data necessary to implement Method A), even though the use of Method A was not mandated at the time those years were originally disposed of on a final basis. In LH's respectful submission this is not an appropriate approach to take when retroactively adjusting a final order of the OEB.
12. The use of Method B for 2015 and 2016 was not an error; Method B was the OEB approved methodology used by LH at the time the Affected Accounts were cleared for those years. The identification of the Error, 5 years after the final disposition of those accounts for those years does not change the fact that Method B was the approved methodology used by LH for those years.
13. Put more simply, LH's proposal fixes an error that was made in the original disposition, whereas OEB Staff's proposal is to attempt to address the disposition from scratch, essentially ignoring the expectations of ratepayers, LH and the IESO at the time of the original disposition that Method B formed the basis of the disposition. In LH's respectful submission those expectations, based on legitimate reliance on a final disposition of the OEB, should be respected through limiting the retroactive adjustments to that disposition to *bona fide* corrections of identified errors and avoiding *ex post facto* changes in methodology.

IN ANY EVENT, LH DOES NOT HAVE THE DATA NECESSARY TO IMPLEMENT METHOD A FOR 2015 AND 2016

14. OEB Staff's suggestion that LH use Method A when disposing of the Affected Accounts for 2015 and 2016 is, moot in any event, as LH does not have the data necessary to do such a calculation, a fact OEB Staff accepts.³

² Application, page 21

³ OEB Staff submission, pages 8-9

15. LH cleared the Affected Accounts for 2015 and 2016 on a final basis using Method B through its 2018 IRM application filed October 4, 2017, and approved by the OEB through its decision on March 22, 2018.⁴ It was not until February 21, 2019, almost a year later, that the OEB issued its Guidance Letter proposing the use of Method A. Within that letter the OEB, while suggesting that Method A may be considered for historical years (i.e. years prior to 2019), specifically noted that the use of Method A for historical years was not expected for years that had already been cleared on a final basis:

The OEB expects that distributors will consider the accounting guidance in the context of their historical balances (i.e. pre January 1, 2019 that have not been disposed on a final basis).⁵ (emphasis added)

16. LH's 2015 and 2016 accounts had, when the Guidance Letter was issued, been cleared on a final basis for approximately 11 months; accordingly, there was no expectation that Method A would apply to the disposition of the Affected Accounts for those years.

17. LH agrees that there was an expectation that historical years that had not been disposed of on a final basis would use Method A. Accordingly, as explained by LH in the EB-2020-0038 application, LH created and maintained a database of the information necessary to clear the Affected Accounts for the years 2017 forward on the basis of Method A;⁶ that database does not include data for 2015 and 2016, as those years had been disposed of on a final basis using Method B at the time LH began development of the new database.

18. As a result, LH does not, in any event, have the necessary data to go back 7 years and apply, from scratch, Method A to the 2015 and 2016, even if LH agreed that it was appropriate to do so (which it does not).

OEB STAFF'S ALTERNATIVES TO METHOD A ARE INAPPROPRIATE IN THE CONTEXT OF AFFECTED ACCOUNTS THAT HAVE ALREADY BEEN DISPOSED OF ON A FINAL BASIS USING METHOD B

19. OEB Staff concedes that LH does not have the data necessary to implement Method A for 2015 and 2016, and so proposes that LH either:

⁴ EB-2017-0059

⁵ <https://www.oeb.ca/sites/default/files/Letter-Account-1588-RSVA-Power-and-Account-1589-RSVA-GA-20190221.pdf>, page 2

⁶ EB-2020-0038 application, pages 34-35

- a) on a best-efforts basis, revisit the 2015 and 2016 balances for Accounts 1588 and 1589 to assess the impact from the switch from Method B to Method A, because OEB Staff is of the view that material adjustments may arise from this assessment;⁷ or
 - b) use the monthly RPP consumptions submitted to the IESO in its 2015 and 2016 RPP settlements to adjust part of the GA credits adjustments received for these two years from Account 1589 to Account 1588.⁸
20. LH submits that under either of the alternatives proposed by OEB Staff the 2015 and 2016 accounts for LH would be disposed of on the basis of a calculation based on neither Method B (even though the OEB previously approved Method B for use by LH for 2015 and 2016 and, LH believes it is fair to assume, many of the other distributors in the province that cleared their Affected Accounts for 2015 and 2016 prior to the issuance of the Guidance Letter) nor Method A (given that both alternatives proposed by OEB Staff fall short of the rigour of Method A).
21. In LH's respectful submission it would be inappropriate to implement a one-off simplified adjustment to the proposed disposition for one distributor for a 2-year period. LH has proposed using Method B, a methodology that was not only approved in a final order for use by LH for these specific years, but also approved for use more broadly for other distributors in the province for those same years.
22. In LH's respectful submission OEB Staff appears to be seeking a solution to a problem that does not exist; LH's proposal to correct the Error across the 2015 to 2022 period replicates the outcomes that should have happened over that same period had the Error not occurred. Given that, for 2015 and 2016 in particular, correcting the Error involves retroactively adjusting a final order of the OEB, LH's proposal to limit that retroactive adjustment to the correction of the Error and resisting non-Error related adjustments out of respect for the original disposition order is the most appropriate relief under the circumstances.

THE ERROR MUST BE CORRECTED USING METHOD B, AS ATTEMPTING TO USE METHOD A TO ALLOCATE THE CORRECTING CREDITS PRODUCES INAPPROPRIATE RESULTS

23. LH has prepared a simplified example (Attachment A) to demonstrate why LH's proposal is the only practical way to properly reflect the credits received from the IESO to correct for the Error in 2015 and 2016.

⁷ OEB Staff submission, page 9

⁸ OEB Staff submission, page 9

24. Tables 1a and 1b illustrate the accounting that would have happened under the two methods if the Error had not occurred. It is important to note that under Method A, the actual paid GA price, calculated by LH, is used for the RPP settlement. Under Method B, the final GA price published by the IESO is used for RPP settlement. If there had been no data error, both the actual paid GA price and the published final GA price would have been the same. The total entries into Accounts 1588 (Power) and 1589 (GA) would also have been the same under both methods. This is what is meant by LH when it asserts that Method A and Method B, assuming the underlying volume data is correct, result in the same outcome, an assertion that OEB Staff agrees with in their submissions. As OEB Staff puts it:

Method A and Method B should result in the same amounts of GA allocated to RPP and Non-RPP customers if everything else works perfectly...⁹

25. The issue is that, when an error in the “everything else” occurs, in this case the mistaken inclusion of Embedded Generation in the calculation, the results from Method A and Method B deviate. Table 2b illustrates the accounting that did occur when LH applied Method B for 2015 and 2016, including the impact of the Error, while Table 2a illustrates the accounting that would have occurred had Method A been used at that time including incorporating the Error. Table 2a shows that the actual paid GA price is above the published final GA price. This results from the allocation of GA costs from the IESO being too high as a result of the Error. Had Method A been used for 2015 and 2016, the impact of the error would have been allocated between RPP and non-RPP customers; however, under Method B, the methodology that was actually used, the entire impact of the Error was captured in Account 1589 (GA) which was in turn allocated entirely to non-RPP customers. This can be seen by comparing the totals in Table 2b to Tables 1a/1b, which demonstrate that when the Error is made using Method B the only impact is on non-RPP customers.

26. OEB Staff expressed a preference for moving from Method B to Method A (Table 2b to 2a) and then making the correction as identified in Table 3a. LH does not have the data to accurately move from Method B to Method A for 2015 and 2016; however, LH does not believe doing so is required to generate the correct outcome. Table 3b depicts what LH is proposing, which is a consistent application of Method B. The impact of processing the data error correction should result in the same outcome as if the data error had never been made. The fact that the total entries in Accounts 1588 (Power) and 1589 (GA) are the same in Table 3b as they are in Table 1a and Table 1b demonstrates how LH’s proposal accomplishes this outcome.

⁹ OEB Staff submission, page 8

27. OEB Staff's alternative proposal for LH to use the monthly RPP consumptions submitted to the IESO in LH's 2015 and 2016 RPP settlements to adjust the GA credits received from the IESO for 2015 and 2016 does not take into consideration that LH used the published final GA price and not the actual paid GA price to do the RPP settlement in Method B. This resulted in the entire impact of the data error being captured in Account 1589 (GA) which was allocated entirely to non-RPP customers. This is shown by comparing the totals in Table 2b (what did happen) to Table 1a and Table 1b (what should have happened if there was no data error under either methodology). The only way to correctly rectify this is to provide the entire credit to Account 1589 (GA) which in turn allocates the entire credit to non-RPP customers. This is what LH has proposed in Table 3b. Splitting the credit between RPP and non-RPP customers after applying Method B at the time the data error was made would result in non-RPP customers continuing to pay too much GA and perpetuate a portion of the impact the data error had on non-RPP customers. As illustrated by Table 3a, using Method A to try and allocate the credit produces an under-recovery for the non-RPP customers relative to what should have happened under both Method A and Method B if the Error had not occurred, as shown by Tables 1a and 1b.

SUMMARY

28. For all these reasons LH respectfully submits that the OEB should accept LH's proposal to allocate the credits received by the IESO with respect to the correction of the Error for 2015 and 2016 utilizing Method B. As set out by LH:
- a) it is appropriate to use Method B, as Method B was the OEB approved methodology used in the OEB's original order disposing of the Affected Accounts for 2015 and 2016 on a final basis;
 - b) the use of Method B in 2015 and 2016 was not an error that needs to be corrected retroactively;
 - c) LH does not have the data required to replicate the OEB Staff proposal to use Method A for 2015 and 2016, nor was there an expectation that LH would ever have to have maintained the data needed for Method A given that the Affected Accounts for 2015 and 2016 were cleared on a final basis in a Decision and Rate Order dated March 22, 2018, 11 months before the Guidance Letter providing directions for the use of Method A for accounts that had not been disposed of on a final basis and 5 years before the Error was identified;

- d) the use of an alternative methodology that is neither Method A or Method B is inappropriate; and
- e) the use of Method B to correct the Error is the only methodology that recognizes that non-RPP customers bore the full impact of the Error in 2015 and 2016 because those years were disposed of based on Method B in the first instance, such that only non-RPP customers require relief.

29. In short, because Method B was used for disposition of the Affected Accounts in 2015 and 2016, only non-RPP customers were negatively impacted by the Error; rectifying the Error by allocating the credits from the IESO using Method B corrects the disposition of the Affected Accounts for 2015 to 2016 to reconcile to the results that would be expected from either Method A or Method B for that period.