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File No. 25841.10

March 22, 2024

BY RESS & EMAIL
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Ms. Nancy Marconi
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Marconi:

Re: Newmarket-Tay Power Distribution Ltd. ("NT Power")
Application for rates effective May 1, 2024
OEB File No. EB-2023-0039
Reply Submission

Further to the Procedural Order No. 1 dated January 24, 2024 in the above noted matter, please find enclosed the reply submission of NT Power.

Please contact the undersigned with any questions.

Yours truly,

BORDEN LADNER GERVAIS LLP

Colm Boyle

CB/JV

EB-2023-0039

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 Newmarket-Tay Power Distribution Ltd. to the Ontario Energy Board for an Order or Orders approving or fixing just and reasonable rates and other services charges for the distribution of electricity, effective May 1, 2024.

REPLY SUBMISSION OF NEWMARKET-TAY POWER DISTRIBUTION LTD.

March 22, 2024

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I. Executive Summary

1. In accordance with Procedural Order No. 1,[1] NT Power submits this reply to the submissions of Ontario Energy Board Staff ("**OEB Staff**"),[2] the School Energy Coalition ("**SEC**"),[3] the Vulnerable Energy Consumers Coalition ("**VECC**")[4] and Coalition of Concerned Manufacturers & Businesses of Canada ("**CCMBC**")[5] (together the "**Parties**") in respect of an Application filed by NT Power on November 22, 2023 with the Ontario Energy Board ("**OEB**") under Section 78 of the *Ontario Energy Board Act, 1998*, as amended, ("**OEB Act**") seeking an Order or Orders approving or fixing just and reasonable distribution rates and other service charges to be effective May 1, 2024 (the "**Application**"). The Board assigned file number EB-2023-0039 to the Application.

2. Newmarket-Tay Power Distribution Ltd. ("**NT Power**") is providing this executive summary to highlight its key themes in reply. The level of detail in the main body is necessary to demonstrate to the Ontario Energy Board ("**OEB**") that it can have confidence in NT Power's work, despite Ontario Energy Board Staff ("**OEB Staff**") suggesting otherwise.

3. NT Power's reply submissions focus on three areas of the Application that were not supported by the Parties: (i) retroactive adjustment of $768,874 for Accounts 1588 – RSVA Power and 1589 – RSVA Global Adjustment in 2020; (ii) disposal of the 2022 balances Accounts 1588 and 1589 in the Newmarket-Tay Rate Zone on an interim basis; and (iii) Incremental Capital Module ("**ICM**") funding in the amount of $9.28 million to fund the relocation of electrical distribution assets required for the road widening project on Yonge Street ("**Road Widening**").

4. NT Power's submissions on each of these areas are summarized as follows:

Retroactive Adjustment of Accounts 1588 and 1589

- To avoid financial hardship, NT Power is requesting that the OEB approve the full retroactive adjustment of $768,874, including interest, for Accounts 1588 – RSVA Power and 1589 – RSVA Global Adjustment in 2020. The proposed reductions by SEC, VECC and OEB Staff all result in NT Power's regulated forecasted return on equity ("**ROE**") being reduced below the OEB's deadband of 300 basis points from NT Power's approved regulated ROE. A disallowance of $768,874 substantially reduces NT Power's ROE to 4.96%.

- The *Adjustments to Correct for Errors in Electricity Distributor "Pass-Through" Variance Accounts After Disposition* (the "**OEB Guidance Letter**")[6] states that these variance accounts

[1] EB-2023-0039, Procedural Order No. 1, January 24, 2024, online: <https://www.rds.oeb.ca/CMWebDrawer/Record/832693/File/document>
[2] OEB Staff Submissions, March 8, 2024, online: <https://www.rds.oeb.ca/CMWebDrawer/Record/843286/File/document>
[3] SEC Submissions, March 8, 2024, online: <https://www.rds.oeb.ca/CMWebDrawer/Record/843321/File/document>
[4] VECC Submissions, March 11, 2024, online: <https://www.rds.oeb.ca/CMWebDrawer/Record/843358/File/document>
[5] CCMBC Submissions, March 8, 2024, online: <https://www.rds.oeb.ca/CMWebDrawer/Record/843322/File/document>
[6] https://www.oeb.ca/sites/default/files/ltr-Retro-Ratemaking-Guidance-20191031.pdf

are designed to ensure that customers ultimately pay no more and no less than what their distributor paid. Costs are intended to be passed through to customers without earning a profit or incurring a loss. NT Power submits that in accordance with the OEB Guidance Letter, based on NT Power's particular case and the four factors identified in the letter, the full requested adjustment is appropriate.

- Setting rates that would effectively endorse NT Power shareholders subsidizing certain customer groups (i.e. the customer groups that Account 1588 and 1589 are disposed) is neither just nor reasonable and is discriminatory. This error was unintentional, done with the intention to be in accordance with OEB guidance, relied upon erroneous information from the IESO, and was the first time it occurred for NT Power or any other utility.

- In the alternative if the OEB concludes a reduction is appropriate, NT Power submits that the OEB apply the methodology in EB-2023-0106 (Synergy North Corporation). Using May 1 2023 to present as a representative analogue, of customers that are disposed the Account 1588 balance (i.e. all customers excluding Wholesale Market Participants), 93.96% of customers are the same as those that received the error. For customers that are disposed the Account 1589 balance (i.e. Non-RPP Class B customers), 96.8% of customers are the same as those that received the error.

Dispose the 2022 balances for Accounts 1588 and 1589 for the Newmarket-Tay RZ on an interim basis

- NT Power submits that final disposition of Account 1588 and 1589 balances in the Newmarket-Tay rate zone (as of the end of 2022), as proposed, remains appropriate. OEB Staff has not provided any compelling reasons to conclude that: (i) an interim disposition is warranted in the circumstances; or (ii) NT Power perform another full review of its Accounts 1588 and 1589 and bring the result of the review to the next rate proceeding when it requests the final disposition of the 2022 balances.

- NT Power followed through on its commitment from its 2023 IRM application to rigorously review Account 1588 and 1589 for the Newmarket-Tay rate zone (of which no Party other than OEB Staff has identified any shortcomings with). To do another review of these accounts would be a duplicative, redundant, and costly endeavor that only further delays the finalization of these amounts, and potentially further exacerbating intergenerational inequity. Another review would stretch NT Power's limited internal staff and resources on a matter NT Power believes has very little probative value.

- OEB staff has misunderstood the treatment of the Charge Type 2148 as presented in NT Power's GA Analysis Workform in this proceeding. NT Power attempts to clarify these misunderstandings and maintains that NT Power has appropriately identified reconciling items and principal adjustments in the Workform. OEB Staff's over-emphasis on perpetually reviewing these accounts until they meet the <1% reasonability test is not appropriate. The

OEB clearly stated that meeting the reasonability tests alone may not necessarily guarantee the accurate balances in the accounts.[7]

ICM Funding for the Road Widening

- NT Power is requesting that the OEB approve the full capital amount of $9,277,757 and the associated revenue requirement for the Road Widening. Specifically, NT Power submits that, contrary to the only issue raised by CCMBC, SEC and VECC in relation to the ICM request, the use of a geometric mean for the input price index is appropriate for NT Power's circumstances.

- A geometric mean better represents actual inflation when calculating eligible ICM capital. Applying the 2024 inflation factor of 4.8% to all historical years since NT Power's last rebasing compounds errors over 13 years and erroneously calculates a lower amount of eligible ICM capital. Inflation has been significantly lower than 4.8% for the entire historical period. As succinctly stated by SEC in EB-2022-0024, "it is not clear that the model works as intended when inflation spikes and recent rate increases are higher than past rate increases."[8]

- As an example, inflating $10,000 based on an inflation factor of 4.8% for all historical years results in a total that is 37% higher than actual inflation ($18,395 vs $13,392 actual). Whereas a geometric mean only results in a total that is 2% lower than actual inflation ($13,119 vs $13,392 actual). Following OEB policy slavishly results in a clear error in NT Power's case.

- In a prior case, OEB Staff proposed and endorsed the use of a geometric mean: "OEB staff notes that given the current economic climate, the Input Price Index ("IPI") used to calculate the PCI in the formula could be adjusted to better reflect the intent of the materiality threshold calculation. Specifically, instead of using the current year's IPI for each historical year, a historical average could be used. […] For example, the geometric mean of IPIs since the rate zone's last rebasing application up to the rate year of the application."[9]

- In Alectra Utilities 2024 ICM (EB-2023-0004), the OEB approved the use of the geometric mean as the IPI in the materiality threshold calculation for the PowerStream rate zone as use of the 2024 IPI may be injurious to the interests of both Alectra Utilities and its customers. Approval of $17.3M in ICM funding in represented 6.06% of Alectra Utilities' overall capital budget of $285.3M for 2024. A $1.2M reduction in capital funding for NT power would represent 6.44% of NT Power's 2024 capital budget. Therefore, even though the use of the 2024 IPI does not fully eliminate NT Power's ICM funding request, the resulting reduction would be a greater impact, and more injurious, to NT Power than it would have been to Alectra Utilities' PowerStream rate zone, had the entire ICM request been denied.

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[7] EB-2023-0106, OEB Submission - Synergy North – Disposal of Accounts 1588 and 1589, May 17, 2023, at page 6, online: <https://www.rds.oeb.ca/CMWebDrawer/Record/789421/File/document>

[8] SEC Submission on Draft Rate Order, July 19, 2023, online: <https://www.rds.oeb.ca/CMWebDrawer/Record/804160/File/document>

[9] EB-2022-0013, OEB Staff Submission, August 23, 2022, at page 4, online: <https://www.rds.oeb.ca/CMWebDrawer/Record/754192/File/document>

5. For the reasons that follow, NT Power requests that the OEB approve the Application as filed, including any adjustments made through the discovery process.[10] NT Power will deal with each of the three topics listed above in further detail in turn.

6. While NT Power has not specifically responded to all written submissions in this Reply, it should not be assumed by NT Power's silence that it agrees with or is ambivalent towards the comments made.

[10] The adjustments made in the discovery process are from IRR 1 for updates to the IRM model for updated rates (e.g. Uniform Transmission Rates, Wholesale Market Service Rate etc.), and IRR 16 for an update to the geometric mean proposed to be used in the ICM funding calculation from 2.12% to 2.11%

II. Retroactive Adjustment of Accounts 1588 and 1589 in 2020

7. As explained in detail in the Application,[11] the requested recovery of $768,874 is to correct an error whereby NT Power recorded a 2020 settlement adjustment credit of $768,874 (reflected as Charge Type 2148 (CT2148) on the Independent Electricity System Operator ("**IESO**") invoice for the Newmarket-Tay rate zone twice. Each credit entry was pro-rated between Accounts 1588 and 1589. NT Power was initially informed by the IESO, and therefore led to incorrectly believe, that a credit adjustment for CT2148 was pending on a future IESO bill in 2021. Therefore, NT Power proceeded to accrue for CT2148 in accordance with the OEB's Accounting Guidance.

8. NT Power agrees with CCMBC that the requested retroactive adjustment is appropriate.[12]

9. OEB Staff is of the view that the OEB should deny the retroactive adjustments, including interest.[13] OEB staff's position to deny the retroactive adjustment is based, in part, on the following erroneous submissions:

   a. OEB Staff disagrees with the premise that meeting the Account 1588 reasonability test (<1%) threshold should have any bearing on the level of additional investigation NT Power should have undertaken. NT Power will address these arguments in section A below.

   b. OEB staff stated, incorrectly, that NT Power ignored a large amount for CT2148 on the December 31, 2020 IESO invoice. NT Power will address these arguments in section B below.

   c. OEB staff disagrees with the notion that the retroactive adjustment has a minimal impact on customers. NT Power will address these arguments in section D below.

For the above items relied on by OEB staff in its submission, in NT Power's view, there are several misinterpretations or misunderstandings of the facts. NT Power will attempt to help clarify these issues as part of this reply.

10. SEC and VECC submitted that NT Power should bear at least some of the cost of their error in recognition of the cost to customers because of its error. SEC made reference to retroactive errors in GrandBridge Energy Inc. and Synergy North's prior rate applications.[14] SEC argued for a 50% reduction in principal amount while VECC argued for a 25% reduction in principal amount. Both SEC and VECC argued for the denial of $67,584 in interest recovery pertaining to the error. NT Power addresses these arguments in section A and C below.

A. OEB's Factors from Retroactivity Guidance Letter

11. The OEB Guidance Letter expressly authorizes retroactive adjustments to Accounts 1588 and 1589 in appropriate cases. OEB Staff notes that it has supported retroactive disposition of

[11] Application at pages 16-22
[12] CCMBC Submission a page 2.
[13] EB-2023-0106, Synergy North Corporation, Decision and Order, August 22, 2023
[14] *Decision and Order* (EB-2022-0305), June 15 2023, and *Decision and Order* (EB-2023-0106), July 6 2023,

accounts subject to the OEB Guidance Letter.[15] This necessarily results in intergenerational inequity regardless of whether the adjustment is a debit or credit.

12. The OEB Guidance Letter states that the OEB will determine on a case-by-case basis whether to make a retroactive adjustment based on the particular circumstances of each case, including the four factors in the table below. When comparing the four factors between the Synergy North (EB-2023-0106), GrandBridge Energy (EB-2022-0305) and current Application, there are similarities, however, the culpability of NT Power should be assessed as comparatively lower due to the nature of the error made:

Table 1 – Four Factors

Guidance Letter Factors	Synergy North	GrandBridge Energy	NT Power
1) Error within control of LDC?	Error was within their control but unintentional and not easily noticeable due to small variance.	Accounting error was clearly within the utility's control.	Error was within its control, although not easily detectable due to the OEB threshold test for GA balances being met at the time, as well as the IESO's advisement that the adjustment would appear in the February or March 2021 invoice.
2) Frequency of error	First occurrence of such an error for Synergy North.	This was the first occurrence of the error and an isolated issue.	First occurrence of such an error for NT Power and an isolated issue that is limited to a single journal entry.
3) Failure to follow guidance	Inadvertent and not a result of a lack of guidance from the OEB.	Did not result from a lack of guidance from the OEB.	NT Power was following OEB guidance by accruing for CT2148 in 2020, the year to which the credit pertained.
4) Degree other LDCs are making same error	Other distributors have made similar errors in 1588 given the accounting complexities to calculate the accounting entries.	Other distributors have made errors in the collection and accounting for Group 1 "pass-through" commodity costs affecting various customer groups.	Given the highly unique nature of the error (single erroneous journal entry), NT Power is not aware of any cases where another distributor made the same or similar error (although generally, other distributors have made accounting errors in their commodity pass-through accounts)

13. As noted above, even though there are some similarities with the above-referenced Synergy North and GrandBridge Energy proceedings, NT Power submits that the nature of the retroactive error is significantly less egregious. Synergy North's error was an error that was repeated annually

[15] EB-2023-0019, OEB Staff Submission, March 5, 2024, pages 10-13, EB-2023-0023 OEB Staff Submission pages 7-9.

from 2016 to 2021 for both rate zones.[16] GrandBridge Energy's error was proposed to be recovered from different customer groups that received the error, thus resulting in cross-subsidization between customer groups.[17] In contrast, NT Power's error was limited to a single journal entry in the Newmarket-Tay rate zone that is proposed to be recovered from the same customer groups that received the error, with minimal timing differences between the initial error and the subsequent correction.[18]

<u>All Four Factors Should be Considered</u>

14. Of the four factors, OEB staff, VECC and SEC only considered control and did not address any of the other factors, the nature of the error, or the circumstances surrounding the error. OEB staff introduced a new consideration in argument with respect to financial hardship. In NT Power's view, the three other factors should also be considered as the OEB Guidance Letter expressly requires these factors to be addressed. NT Power agrees with the OEB, as stated in its letter, that rate-retroactivity matters should be considered on a case-by-case basis. NT Power submits that Parties to this proceeding have largely generalized this issue and accordingly have linked NT Power's situation directly to other recent rate retroactivity proceedings, without explaining the similarities or differences between those cases. More importantly, based on the range of suggested disallowances (100% from OEB staff, 50% from SEC, and 25% from VECC), Parties are all proposing disallowances that are significantly greater than what the OEB has previously ordered in those cases, particularly when adjusted for the size of the utility. When gauging NT Power's circumstances as discussed above against those of other proceedings referred to by Parties, NT Power submits there is an enormous misalignment between the level of proposed disallowances argued by Parties, and the nature of NT Power's actions that led to the error in this specific case.

<u>Control</u>

15. OEB staff stated that NT Power acknowledged that the error was within its control, but also attributed the oversight partially to the fact that the 2020 GA Analysis Workform fell within the OEB threshold test (i.e., less than 1%), leading to the conclusion that no further investigation was required. OEB staff disagreed with this statement and stated that that meeting the reasonability test itself does not indicate that the balance in the account is accurate. On the other hand, not meeting the reasonability test should raise a red flag to the utility for a detailed investigation.

16. NT Power partially agrees with OEB staff's position. As discussed in interrogatory responses, NT Power agrees that the Workform is a reasonability test, where meeting the threshold test does not guarantee the balance is accurate and not meeting the threshold test does not necessarily signify the balance is incorrect.[19] NT Power considers the reasonability test as a guideline, and when the threshold is not met further analysis is warranted. In NT Power's view, when the threshold test is met and there are no other flags that come to light at the time (as was the case for NT Power in its 2020 Workform in the 2022 IRM), it is not reasonable nor is it practical

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[16] EB-2023-0106 Decision and Order, July 6, 2023 pages 6-8
[17] EB-2022-0205 Decision and Order, June 15, 2023, pages 4-7
[18] NT Power initially proposed for this adjustment to be made only one fiscal year apart from the original error, however, following a series of procedural deferrals in the 2023 rate application, it is now being proposed as part of this proceeding (two year differential between error and correction).
[19] IRR 10-1-Staff-10

for NT Power to go investigate the balance for Accounts 1588 and 1589, when all evidence is suggesting that the balances are reasonable as filed. Doing so would also defeat the purpose of the reasonability tests if distributors were required to investigate balances regardless of whether the threshold test is met or not. NT Power acknowledges that the error was in its control. However, NT Power has also provided context to the circumstances under which the error was made, as further discussed in section B below.

B. ***Context for the CT2148 Error***

17. OEB staff questioned how NT Power could ignore a large CT2148 amount on its December 2020 invoice. NT Power submits that this is an incorrect understanding and NT power did not ignore the CT2148 on its invoice. In fact, NT Power repeatedly reached out to the IESO to confirm the details of CT 2148.

18. NT Power confirms there was a CT2148 adjustment on the December 2020 invoice, however, it was not in the amount of $768,874. NT Power was advised by the IESO that the CT2148 adjustment would be included in the February or March 2021 invoice.[20] NT Power did not receive a timely response from the IESO on this matter. NT Power attempted to contact the IESO on numerous occasions without success. The entire electric industry was busy addressing a number of changes to address settlement and accounting practices as result of COVID-19. In addition, NT Power also experienced staffing challenges with turnover and unfulfilled vacancies.[21]

19. It was not until September of 2021 that NT Power received confirmation from the IESO that the CT2148 for $768,874 had actually been included in the December 2020 invoice. NT Power notes that even though it erroneously refunded the CT2148 credit twice to customers, the intention of making the journal entry was to comply with the OEB's Accounting Guidance to accrue for transactions in Accounts 1588 and 1589 on a calendar year basis. NT Power was actively and purposefully trying to make sure that customers were getting the credits they were thought to be owed on a timely basis, especially during times of economic hardship and turmoil, and as mandated by the OEB's Accounting Guidance.

C. ***Denial of the Retroactive Adjustment Will Cause NT Power Financial Hardship***

20. OEB Staff is requesting, for the third time in related proceedings,[22] that the OEB deny the entire proposed retroactive adjustment totaling $768,874 and associated interest for Accounts 1588 and 1589. This request, if approved, would represent the largest denial on retroactivity in recent years and is 16 and 17 times larger than what was denied in Synergy North's ($47,088 or 6.5% to 7.75% of the error) (EB-2023-0106) and GrandBridge Energy's ($44,000 or 10% of the error) (EB-2022-0305) cases, respectively. NT Power notes that OEB staff has requested that a tariff of rates and charges be included in NT Power's reply submission reflecting the impacts of a 100% denial of recovery. NT Power reminds Parties that bill impacts associated with the $768,874

[20] EB-2022-0050 IRR OEB-Staff-7
[21] Manager's Summary, page.21
[22] EB-2023-0106, OEB Submission - Synergy North – Disposal of Accounts 1588 and 1589, May 17, 2023, at page 6, online: <https://www.rds.oeb.ca/CMWebDrawer/Record/789421/File/document>; EB-2022-0305, OEB Submission – GrandBridge Energy – Application to Dispose of Certain DVAs, April 26, 2023, at page 5, online: <https://www.rds.oeb.ca/CMWebDrawer/Record/786302/File/document>

adjustment were provided in IRR 11-SEC-1c. Furthermore, NT Power confirms that it will provide updated rate rider calculations, as well as proposed tariff and bill impacts as needed, to reflect the OEB's decision.

21. A complete denial will result in financial hardship for NT Power. Using NT Power's 2024 forecasted regulated return on equity ("**ROE**"), the estimated impact of a disallowance of $768,874 would result in a ROE of 4.96%. This would result in NT Power's ROE being below the OEB's deadband of 300 basis points from NT Power's approved regulated ROE. NT Power notes that even a 50% or 25% disallowance as suggested by SEC and VECC, respectively, would also result in NT Power to under-earn by more than 300 basis points. Finally, from a materiality perspective, NT Power's materiality threshold in the Newmarket-Tay rate zone is $85,000.[23] Any of the proposed disallowances from Parties would clearly have a material impact on the company. A decision by the Supreme Court of Canada OEB requires that, as an **absolute obligation**, approved rates must produce a fair return.[24]

22. SEC and VECC are, respectively, requesting an arbitrary 50% and 25% reduction in recovery of the principal amount and a denial of associated interest. For reasons that are unclear to NT Power, it is difficult to reconcile why VECC supported full recovery of Synergy North's retroactive adjustment in EB-2023-0106 but is now requesting a 25% reduction to NT Power's retroactive adjustment.[25] VECC apparently supported Synergy North's intention to keep everyone whole, and to ensure ratepayers are charged what they should have been charged.[26] NT Power submits the same intention exists here.

D. Intergenerational Inequity Concerns Are De Minimus

23. To support the proposed reductions, both OEB Staff and SEC raise intergenerational equity concerns about recovery of retroactive adjustments. SEC states the following logic should be applied: "The basis for the disallowance was that it would be unfair to require customers, who were not the same as those who had received the credit in error, to be required to pay it back after the amount had been disposed on a final basis."[27]

24. NT Power's original request was to address this correction only one year after the error occurred, which would have been the quickest timeframe procedurally possible and result in the shortest intergenerational gap. Following a series of procedural delays, and in accordance with the suggestion of Parties in prior proceedings, this issue was deferred to the current application for rediscovery.

25. Intergenerational inequity concerns were dealt with in Synergy North's Decision and Order (EB-2023-0106) ascertaining the percentage of customers who were both present at the time of the

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[23] Equal to 17,050,004 x 0.5% materiality threshold. Revenue requirement from EB-2009-0269 Decision and Order, Appendix A, p.5. Materiality Threshold per per Chapter 2 Filing Requirements for 2024 For Electricity Distribution Rate Applications - 2023 Edition for 2024 Rate Application, December 15, 2022

[24] *British Columbia Electric Railway Co. Ltd. v. Public Utilities Commission of British Columbia et al [1960] S.C.R. 837*, at p.848.

[25] EB-2023-0106, VECC Submission – Application for the Disposal of Accounts 1588 and 1589, May 16, 2023, at page 5, online: <https://www.rds.oeb.ca/CMWebDrawer/Record/789420/File/document>

[26] *Ibid.*

[27] SEC Submission at page 2.

error and at the time of the proposed recovery of the error. The OEB found that approximately 6.5% to 7.75% of the customers in 2023 should not be held accountable for the retroactive correction amounts of $442,963 in 2020 and $236,071 in 2019. The OEB disallowed $47,088 out of the total proposed retroactive adjustment of $679,034 based on the above.[28] Similarly, in GrandBridge Energy's Decision and Order (EB-2023-0106), the OEB stated that fundamentally, only those customers who received a credit in error in 2020 and 2021 should bear a cost to correct that error in 2023. OEB found that a reduction of the principal balance in Account 1595 (2018) by $44,000, or approximately 10%, is reasonable. The $44,000 reduction was the OEB's judgement of an appropriate reduction to address issues such as the estimated consumption of customers that transitioned into non-RPP/non-WMP Class B after GrandBridge Energy's accounting error, and the growth in GrandBridge Energy's customer base for these customer classes over the two-year period.[29]

26. When assessing the impact of the error to NT Power's customers, OEB staff stated that in 2020 NT Power had approximately 45,000 customers and today, has almost 50,000 customers and that allowing a retroactive adjustment would lead to intergenerational inequity for new customers. NT Power argues that OEB staff's assessment does not accurately reflect the situation in terms of the time period considered and the customer count.

27. Firstly, the time period considered is not appropriate because customers were only impacted starting May 1, 2022, when the 2020 balance was disposed through a rate rider effective May 1, 2022 to April 30, 2023. It should be noted that these customers received the benefit of an erroneous credit from May 1, 2022 to April 30, 2023. Therefore, the customers that are negatively impacted would only be those customers that did not receive the erroneous credit (i.e. customers that moved into the Newmarket-Tay rate zone after April 30, 2023) but would be paying for the NT Power's requested recovery of the error proposed to start May 1, 2024. Therefore, the relevant time period to consider is May 1, 2023 to today.

28. In addition, the customer count that OEB staff quoted is for NT Power and not just the Newmarket-Tay rate zone, which are the only customers affected by this error.[30].

29. In accordance with OEB staff's request to include a methodology for a partial recovery, NT Power is providing the proportional customers that moved in from May 1, 2023 to today in its Newmarket-Tay rate zone. NT Power notes that this approach is similar to the approach taken in the proceeding cited by OEB staff for Synergy North.

a. For customers that are disposed the Account 1588 balance (i.e. all customers excluding Wholesale Market Participants), 93.96% of customers are the same as those that received the error.

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[28] EB-2023-0106, Synergy North Decision and Order, July 6, 2023, at page 6, online: <https://www.rds.oeb.ca/CMWebDrawer/Record/801216/File/document>

[29] EB-2023-0106, GrandBridge Energy Decision and Order, June 15, 2023, page 8, online: < https://www.rds.oeb.ca/CMWebDrawer/Record/796535/File/document>

[30] NT Power notes that the 50,000 customers figure that OEB staff referenced is based on NT Power's website, which is an approximate rounded number and not based on actuals

b. For customers that are disposed the Account 1589 balance (i.e. Non-RPP Class B customers), 96.8% of customers are the same as those that received the error.

30. NT Power submits that the evidence presented in this proceeding suggests that no disallowance is warranted. However, in the event that the OEB decides that the circumstances for NT Power parallel those of other distributors who sought retroactive correction of balances, NT Power submits that this value should be based upon the turnover of NT Power's customers from May 1, 2023 to today. This method would best align to the customers that would be negatively impacted, and, rather than a simple arbitrary figure that SEC and VECC have proposed, it mirrors the methodological approach previously used by the OEB in determining a value for partial recovery.

E. __Proposed Reductions Amount to Unjust and Unreasonable Rate Making__

31. SEC and VECC argue that NT Power should bear some of the costs of the error in recognition of the cost to customers because of its error. The Parties suggest that, as a utility that has control over its own books, the proposed reduction reflects an appropriate balance of the harm caused by the retroactive adjustment to customers, and the financial impact of a disallowance to a utility of NT Power's size.[31] NT Power does not agree that an arbitrary reduction of 50% ($384,437) or 25% ($192,219) is appropriate on this basis. OEB staff's position (full denial, with the caveat that a partial recovery may be considered if financial hardship results) was addressed earlier in this reply. As discussed earlier, NT Power submits that the Parties suggesting reductions have generalized this issue, and have not adequately addressed the four factors specific to NT Power's circumstances in this case.

32. While there may be volatility in rates to recover the error, NT Power submits that customers have not been materially harmed. Rather, SEC and VECC's proposed reductions (and the OEB Staff's requested disallowance) results in the unjust enrichment of NT Power customers at the expense of NT Power shareholders.

33. Furthermore, setting rates that would effectively endorse NT Power shareholders subsidizing certain customer groups (i.e. the customer groups that Account 1588 and 1589 are disposed) is neither just nor reasonable. The fact is that certain customer groups received a financial benefit they were never entitled to.[32] NT Power's proposed disposition is the right thing to do.

34. SEC, VECC and OEB Staff all submit that the OEB should deny the request to recover any of the $67,584 in interest related to the CT2148 adjustment. NT Power does not agree. Financing is a real cost that NT Power must bear. NT Power does not profit from the recovery of carrying charges. The OEB has stated that principle of "costs should follow benefits" is a key regulatory principle that should not be easily strayed from.[33] Customers who unjustly benefitted from the cash

[31] SEC Submission and page 2; VECC Submission at page 8.
[32] This concern was specifically raised at page 2 of the OEB Guidance Letter.
[33] Decision and Order EB-2016-0255, Milton Hydro Distribution Inc, February 22, 2018, at page 13, online: <https://www.rds.oeb.ca/CMWebDrawer/Record/600369/File/document>

flow from the refund received for the error, which was financed by NT Power, should pay for interest charges. Prior decisions are not helpful as those utilities offered to refund interest charges.

35. Reductions proposed by SEC, VECC and OEB Staff are punitive in the circumstances. NT Power made innocent and *bona fide* accounting errors, which NT Power voluntarily disclosed and has actively attempted to remedy. The IESO not only provided inaccurate information to NT Power, but did not support NT Power in a timely fashion to correct this issue, following repeated attempts by the company to do so. The error is a singular journal entry, with no systemic deficiency or process-related failure to follow OEB Guidance. Finally, it is important context to note that this accrual was made because the company was proactively trying to ensure that customers were getting a credit in the correct time period (i.e., this error was not the result of a lack of oversight or indifference on the part of the utility, but rather the result of relying on inaccurate information provided to it).

F. Full Recovery of Pass-Through Account Errors is Fair

36. Like any institution that is composed of human staff, errors will occasionally occur, despite best efforts to prevent them. This is acknowledged in the OEB Guidance Letter and no reductions to the principal amount or associated interest is appropriate in the circumstances.

37. NT Power submits that the OEB specifically carved out "pass-through" accounts from retroactive ratemaking for defensible policy reasons. As stated in the OEB Guidance Letter, pass-through accounts relate to:[34]

> "…commodity, Independent Electricity System Operator and other third party charges that electricity distributors have paid or that are payable and that **are intended to be passed through to their customers without** earning a profit or **incurring a loss** […] These variance accounts are designed to ensure that customers ultimately pay no more and no less than what their distributor paid, and that costs are tracked for recovery on the appropriate basis." [Emphasis added]

38. This quote in the OEB Guidance Letter specifically contemplates that symmetrical treatment of retroactive adjustments for errors may be appropriate given the pass-through nature of the amounts. This makes sense. Potential errors in these accounts can be quite large as the cost of electricity can be the single largest cash item that flows through a distributor's monthly accounting records.[35] It would not be reasonable for either customers or the utility to be expected to assume such a large balance when an error occurs. Neither customers nor the utility should profit or incur a loss from a pass-through account.

III. Disposal of Accounts 1588 and 1589 in the Newmarket-Tay rate zone on an interim basis

39. OEB staff submitted for the interim disposition of Account 1588 and 1589 balances, as of the end of 2022, for the Newmarket-Tay rate zone because it does not have confidence in the accuracy of the balances. OEB staff stated that NT Power should do a full review of its Account

[34] OEB Policy Letter at page 2.
[35] OEB Policy Letter at page 2.

1588 and 1589 and bring the results of the review in its next rate proceeding when it requests final disposition. OEB staff's reason for its position is due to the following:

- The information provided by NT Power on Accounts 1588 and 1589 in its 2023 IRM and this year has kept changing. NT Power addresses this in Section A below.
- OEB staff's incorrect statement that the GA Analysis Workform in this proceeding does not appear to be complete. NT Power addresses this in Section B below
- OEB staff disagreeing with assessing Account 1589 using a cumulative approach. NT Power addresses this in Section C below.

40. NT Power notes that OEB staff's concerns on Accounts 1588 and 1589 seem to mainly stem from the latter two bullets above. NT Power notes that OEB staff has not cited any other issues with the 2021 and 2022 balances. Therefore, NT Power believes that after OEB staff's misunderstandings are addressed below (and presumably clarified), there would be no reason for OEB staff to suggest that an interim disposition is warranted.

41. Furthermore, regarding OEB Staff's concern with the CT2148 treatment, NT Power has already done a thorough and comprehensive review and detailed the steps it has taken for this review in its Manager's Summary.[36] The NT Power review that OEB staff is suggesting needs to take place has already been done, utilizing maximum resources and all available staff over the course of March to November 2023 (e.g. data source review, cross-referencing processes to OEB guidance, etc.). NT Power does not believe a further review is warranted, and does not believe that a further review will result in any changes to the treatment of CT2148 in NT Power's accounting records, or any evidence filed in this proceeding. To do another review would be a duplicative, redundant, and costly endeavor that only further delays the finalization of these amounts, and potentially further increase intergenerational inequity.

A. Information filed in 2023 and 2024 IRMs

42. OEB staff stated that the information provided by NT Power on Accounts 1588 and 1589 in its 2023 IRM and this year kept changing. NT Power submits that this is expected when NT Power was directed to do a comprehensive review of the accounts. That, in effect, was the purpose of the review (to represent the balances and support them with the outcomes of NT Power's review). NT Power submits that OEB staff's comparison of the evidence in the current proceeding to that in the 2023 IRM as a reason for doubting the accuracy of the account balances in this proceeding is not rational, and ignores the comprehensive review NT Power has completed as well as the evidence presented in the current proceeding. NT Power notes that OEB staff has raised no issue with the extent or quality of its internal review.

[36] Manager's Summary, pages 25-26

B. GA Analysis Workform

Original Correct CT2148

43. OEB staff stated:

> The updated GA analysis workforms provided in this application for the years of 2020 and 2021 appear to be incomplete because not all reconciling items are identified on these GA analysis workforms. The GA analysis workform instruction issued in September 2022 states that the Charge Type 2148 would be a reconciling item on the workform as it would not be reflected in the actual GA rate that is populated in the Analysis of Expected GA Amount table.

44. NT Power assumes that OEB staff's statement above is referring to the original CT 2148 that was correctly booked in the 2020 general ledger. NT Power submits that OEB staff's understanding of the treatment for CT2148 in NT Power's specific circumstances is incorrect. Per the GA Analysis Workform Instructions, reconciling items explain the misalignment between the expected GA balance calculated on the Workform and the balance in the general ledger.[37] As noted by OEB staff, CT2148 would typically be a reconciling item as it would not be reflected in the actual 2020 GA rates and 2020 billed consumption that is used to calculate the 2020 expected GA balance in the Workform. This assumes that the CT2148 is adjusting for a prior year. However, this is not the case for NT Power's CT 2148 in question.

45. The $768,874 portion of NT Power's December 2020 CT2148 was an adjustment for a prior month in 2020, and not an adjustment pertaining to a prior year. Therefore, the settlement reporting error and the resulting correction of that error through CT2148 were both reflected in IESO invoices in 2020, and recorded in the 2020 general ledger. Therefore, there is no misalignment in CT2148 between the general ledger and the expected balance, as both the original settlement error and subsequent CT2148 adjustment were reflected in 2020. Hence, there is no need for a reconciling item for the original CT2148.

Erroneous CT 2148 Accrual

46. OEB Staff further stated that it appeared that NT Power did not include the manual accrual entry for a credit amount of $494,079 on the 2020 Workform. And that it also appeared that NT Power did not include the 2021 reversal entry of a debit amount of $494,079 on the 2021 Workform.

47. NT Power assumes that by "manual accrual entry", OEB staff means the erroneous journal entry that was made. NT Power notes that $494,079 is the portion of CT2148 relating to GA. NT Power agrees that the erroneous CT2148 accrual is a reconciling item. However, OEB staff's above statements are incorrect. NT Power included and clearly labelled this as a debit reconciling item of $494,079 in cell C84 for "CT2148 Accrued Twice in Error" of the GA 2020 tab in the Workform. NT Power also included the reversing credit reconciling item of $494,079 in cell C86

[37] GA Analysis Workform Instructions – 2024 Rates, dated June 23, 2023, page 6

of the 2021 GA tab in the Workform. It is unclear to NT Power how OEB staff arrived at the conclusion that these entries were not included in the relevant Workform.

48. NT Power provides the following table to summarize the appropriate treatment of CT2148.

Table 2 – Reconciling Items and Principal Adjustments

	Year	**Expected GA Balance Calculated in GA Workform**	**NT Power's General Ledger (GL)**	**Reconciling Item Needed?**	**Principal Adjustment Needed?**
Original CT 2148 entry	2020	Included in the 2020 expected GA balance because the 2020 expected GA balance is calculated based on 2020 billed consumption and GA rates only, and therefore captures all 2020 activity.	Included in the GL as both the settlement error and resulting CT2148 correction occurred in 2020, and were both reflected in the 2020 GL.	No - expected balance and GL are aligned	No - CT2148 correctly recorded in GL
Erroneous CT2148 accrual	2020	Excluded from the 2020 expected GA balance because the expected balance is calculated based on 2020 billed consumption and GA rates only. It would have included the original CT2148 entry but not the erroneous CT2148 accrual.	Included in NT Power's 2020 GL in error for a credit of $494,079	Yes - expected balance and GL are not aligned. Debit of $494,079 shown (cell C84 of GA 2020 tab)	Yes – debit of $494,079 (cell J56 in Principal Adjustment tab of Workform) to shift the correcting entry recorded in 2021 back to 2020, the year that it should have been recorded in.
	2021	Excluded from the 2021 expected GA balance because the expected GA balance is calculated based on 2021 billed consumption and GA rates only, and does not reflect any 2020 activity.	Correcting entry of debit $494,079 included in NT Power’s 2021 GL	Yes, expected balance and GL are not aligned. Credit of $494,079 shown (cell C86 of GA 2021 tab)	Yes – credit of $494,079 (cell J72 of Principal Adjustment tab of Workform) to shift the correcting entry recorded in 2021 back to 2020, the year that it should have been recorded in.

C. ***Cumulative Assessment Methodology***

49. OEB staff stated that NT Power argued that one reason to support the account balances is that the cumulative unresolved difference for Account 1589 from 2020 to 2022 is below the 1% threshold. OEB staff disagreed with this cumulative assessment methodology, asserting that materiality should be assessed on an annual basis using a threshold of +/- 1%.

50. NT Power submits that OEB staff has not considered the full context of the account balances. In NT Power's Manager's Summary, NT Power stated that the unresolved difference was not significant and that the overall claim was reasonable for a distributor the size of NT Power.[38] NT Power noted that only the unresolved difference for 2020 in Account 1589 is 0.4% above the 1% threshold.[39] The 2021 and 2022 unresolved differences are 0.4% and (0.1%). NT Power did note that the unresolved difference for Account 1589 on a cumulative basis for 2020 to 2022 is below 1%. Account 1588 also is below the 1% threshold for 2020, 2021 and 2022 (individually and cumulatively).

51. Although NT Power believes that looking at the entire context for the accounts is important, NT Power accepts OEB staff's view that an annual assessment of the test is also important. As noted above, only NT Power's 2020 Account 1589 unresolved difference is above 1%, at 1.4%. NT Power is unclear on what OEB staff is suggesting in terms of the reasonability of the 2020 balance. OEB staff has stated that the test is a generic check on reasonability.[40] Therefore, this suggests that the 1% threshold is not a definitive threshold. OEB staff has stated that meeting the threshold test does not indicate the balance is accurate; and not meeting the test should raise a red flag for the utility to do a detailed investigation.[41] The OEB has also previously expressed similar sentiments,[42] and as did NT Power.[43] Unresolved differences being greater than 1% do not necessarily signify that the Account 1589 balance is incorrect. Similarly unresolved differences being less than 1% does not guarantee the Account 1589 balance is correct. Being above 1% is a flag to investigate balances further, and NT Power acknowledged that flag and has done a comprehensive and thorough review. While NT Power assumes that being under the 1% threshold in 2020 would have given OEB staff greater comfort in the reasonability of the balances, NT Power is not prepared to force any adjustments to make that happen. The outcomes of its comprehensive review of its commodity accounts are what guided NT Power as far as its preparation of the evidence. It is not obviating its requirement to review each year individually, but rather, is making the point that from a customer perspective, when disposing of multiple years of balances in question, the impacts are certainly reasonable.

52. In addition, NT Power notes that the OEB has approved disposition of account balances where the annual unresolved differences are above 1%, and whereby the applicant noted the cumulative unresolved difference across multiple years is less than 1%.[44]

NT Power believes the above clarification would satisfy OEB staff's concerns on the reasonability of Account 1588 and 1589 balances. No other Party raised concerns about the balances in question (aside from the retroactive adjustment matter). NT Power submits that final disposition of Account 1588 and 1589 balances in the Newmarket-Tay rate zone (as of the end of 2022), as proposed, remains appropriate.

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[38] Manager's Summary, page 26
[39] IRR 1-Staff-10
[40] OEB staff submission, page 7
[41] OEB staff submission, page 7
[42] EB-2023-0106 Synergy North Decision and Order, July 6, 2023, page 13
[43] IRR 1-Staff-10
[44] EB-2023-0021 Festival Hydro Inc. Decision and Rate Order, December 13, 2023, page 8

Moreover, NT Power implores the OEB to consider the extensive nature of the commodity account review undertaken (of which no Party has identified any shortcomings with), following the deferral of this issue in the 2023 IRM application. At that time, NT Power committed to coming back to the OEB as part of its 2024 IRM application with an updated set of evidence that was well-informed by its review of these accounts. NT Power has done just that and emphasizes how significantly committed and involved its staff was in that project, the resources deployed (including staff with specialized knowledge in these areas), the amount of time spent, the quality of the review, and the comfort the OEB should have in the accuracy of these balances based on this review.

IV. ICM Funding

A. Use of Geometric Mean

53. NT Power agrees with OEB Staff that the OEB should approve the full capital amount of $9,277,757 and the associated revenue requirement for the Road Widening.[45]

54. NT Power understands the only issue raised by CCMBC, SEC and VECC in relation to the ICM request relates to the use of a geometric mean for the input price index ("**IPI**") (i.e. inflation factor). These interveners similarly request that: (i) NT Power does not use the geometric mean based on inflation values from its last rebasing to 2024 as the IPI in its ICM materiality threshold formula; and (ii) the OEB require NT Power to use the OEB's 2024 inflation factor of 4.8%. If accepted, this results in an $1,202,500 reduction in ICM capital funding and a resulting reduction in revenue requirement of 13% or $101,835.

55. NT Power does not agree with CCMBC, SEC and VECC for NT Power's specific circumstances. Disallowing recovery of these capital costs penalizes NT Power for a non-discretionary and discrete project and results in less expenditures on other capital projects as was forecasted in the Distribution System Plan ("**DSP**"), which is contrary to policy intent of the ICM.

IPI Applied to NT Power's Specific Circumstance

56. All Parties referred to the OEB's recent decision on Alectra Utilities' 2024 ICM (EB-2023-0004), where the OEB denied the use of the geometric mean in the ICM materiality threshold formula for the Enersource rate zone.[46] Only SEC acknowledged that the OEB approved the use of the geometric mean for the PowerStream rate zone. In its decision, the OEB stated that altering the inflation factor in the ICM formula could best be considered as part of a review of the OEB's ICM policy and that it was not prepared to alter a single parameter in a complex formula, in isolation. Any change to the formula would be best addressed as part of a review of the OEB's ICM policy. NT Power is not requesting that the OEB change its ICM policy. NT Power's request is only for the OEB to adjudicate based on NT Power's current specific circumstance. NT Power's ICM funding request cannot wait until a review of the ICM policy is completed.

57. The 2024 IPI is the highest inflation factor ever issued by the OEB and blindly applying the IPI in the ICM model leads to an inappropriate result, that does not result in just and reasonable

[45] OEB Staff Submission at page 13.
[46] EB-2023-0004, p.10

rates.[47] NT Power submits that a geometric mean more accurately represents the actual historical inflation growth between 2012 and 2024 for NT Power as it considers the compounding effect of different IPIs in their respective years, and allows it to fairly recover costs for a non-discretionary capital project.

58. As an example, the table below shows the growth of $10,000 using inflation rates representing actual, geometric mean and 2024 IPI. Applying the 2024 IPI to all historical years compounds errors over 13 years and results in a total that is 37% higher than actual inflation. Whereas a geometric mean only results in a total that is 2% lower than actual inflation.

Table 3 – Growth Based on Different Inflation Factors

Year	Actual IPI	Growth ($)	Geomean	Growth ($)	2024 IPI	Growth ($)
2011		10,000		10,000		10,000
2012	2.00%	10,200	2.11%	10,211	4.80%	10,480
2013	1.60%	10,363	2.11%	10,426	4.80%	10,983
2014	1.70%	10,539	2.11%	10,646	4.80%	11,510
2015	1.60%	10,708	2.11%	10,871	4.80%	12,063
2016	2.10%	10,933	2.11%	11,100	4.80%	12,642
2017	1.90%	11,141	2.11%	11,335	4.80%	13,249
2018	1.20%	11,274	2.11%	11,574	4.80%	13,884
2019	1.50%	11,443	2.11%	11,818	4.80%	14,551
2020	2.00%	11,672	2.11%	12,067	4.80%	15,249
2021	2.20%	11,929	2.11%	12,322	4.80%	15,981
2022	3.30%	12,323	2.11%	12,582	4.80%	16,748
2023	3.70%	12,779	2.11%	12,848	4.80%	17,552
2024	4.80%	13,392	2.11%	13,119	4.80%	18,395
Difference from Actual				**-2.04%**		**37.36%**

59. Imposing an inflation factor that is not reflective of reality would be injurious and unfair to the interests of both NT Power and its customers. An annual $101,835 reduction in revenue requirement is above Newmarket-Tay's rate zone materiality threshold of $85,000 and subsuming $1,200,500 of capital expenditures into existing rates (which represents approximately 6.5% of NT Power's 2024 capital budget) will result in other capital projects being deferred or cancelled. CCMBC suggested that NT Power can pay for the $1,200,500 by reprioritizing its 2024 projects. However, NT Power submits that CCMBC did not provide any support for its statement and CCMBC did not assess whether any of NT Power's 2024 budgeted projects can be reprioritized without consequence. NT Power is most concerned about how deferral of planned capital projects may affect its ability to maintain a high quality of electricity distribution service to customers. NT Power submits that there are no material capital projects in the 2024 capital budget that can be

[47] Application at page 34.

deferred without implication. NT Power's capital planning process reflects prudent pacing of projects. Any capital project that could be deferred from the 2024 budget has already been deferred to a future year's budget.

60. The OEB's ICM policy[48] is intended to provide options for distributors to recover costs for discrete capital projects when they are needed throughout the Price Cap Incentive Rate cycle.[49] Applying ICM policy in the manner proposed by CCMBC, SEC and VECC, without considering the utility's specific circumstances may discourage electric utilities from seeking incremental capital to undertake necessary and urgent capital projects. This may result in a reversion to volatility of capital investments, which is what the ICM policy was intended to avoid.[50]

61. In a recent case the OEB Staff recognized the inherent unfairness in using current IPI rates in the calculation of PCI.[51]

<u>Impact of using the 2024 IPI to NT Power</u>

62. In approving the use of the geometric mean for the PowerStream rate zone in Alectra Utilities, the OEB stated that:[52]

> However, the OEB recognizes that the application of the current formula using an inflation factor derived from the 2024 IPI may be injurious to the interests of both Alectra Utilities and its customers as it will provide no ICM funding to undertake necessary and urgent proposed cable renewal project. The deviation from the requirement to generate the materiality threshold from its formula directed by OEB policy in this proceeding is an exception based solely on the result of the 2024 IPI input to the formula for calculating the materiality threshold given the significant variance in the result between using the 2024 IPI and the geometric mean or historic annual IPIs since rebasing. Such deviation is not precedential in nature and is furtherance of the statutory objective of the OEB to protect the interests of consumers with respect to prices and the adequacy, reliability, and quality of electricity service. Accordingly, the OEB will provide an exceptional remedy in these specific circumstances.

63. SEC noted that the OEB found exceptional circumstance since the application of the 2024 OEB Inflation Factor resulted in a materiality threshold that would have eliminated all ICM funding. SEC stated that this was not the case for NT Power and it would still be eligible to recover $8,075,256, resulting in a revenue requirement of 13% or $101,835 less than it sought. SEC argued

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[48] ACM Report; Report of the Board – New Policy Options for the Funding of Capital Investments: Supplemental Report, dated January 22, 2016; and Letter re: Incremental Capital Modules During Extended Deferred Rebasing Periods, dated February 10, 2022.
[49] ACM Report at page 11.
[50] Report of the Board – New Policy Options for the Funding of Capital Investments: The Advanced Capital Module, dated September 18, 2014, at section 3 ("**ACM Report**")
[51] EB-2022-0013, Alectra Utilities 2023 ICM, OEB staff submission, August 23, 2022 and EB-2023-0004, Alectra Utilities 2024 ICM, OEB staff submission, Oct. 18, 2023
[52] EB-2023-0004, Alectra Utilities Decision and Order, Feb 13, 2024, pages 10-11

that this level would not require any adjustment to the ICM policy. NT Power disagrees with this assessment for the below reasons.

64. First, as noted above, the OEB's deviation from the requirement to use the 2024 IPI of 4.8% as the inflation factor in calculating the materiality threshold in Alectra Utilities' 2024 ICM was an exception based solely on the result of the 2024 IPI input to the formula for calculating the materiality threshold given the significant variance in the result between using the 2024 IPI and the geometric mean or historic annual IPIs since rebasing. NT Power submits that the variance between the 2024 IPI and the use of geometric mean or historic annual IPIs since rebasing for its particular circumstances are also significant. This is shown in the Table 3 above, where the use of the 2024 IPI results in growth that is 37% higher than using actual IPIs. Furthermore, a $101,835 reduction in revenue requirement with a cumulative impact of $407,340 until NT Power rebases in 2028, is a material amount for the Newmarket-Tay rate zone.[53]

65. Furthermore, NT Power submits that the impact of a $1,202,200 reduction in capital funding would have greater significance to NT Power and would be more injurious to the interest of both NT Power and its customers, than the impact of the full denial of the PowerStream rate zone's ICM would have been to Alectra Utilities. The OEB approved $17.3M in ICM funding for the PowerStream rate zone because of its significance to Alectra Utilities. This amount represented 6.06% of Alectra Utilities' overall capital budget of $285.3M for 2024. A $1.2M reduction in capital funding for NT power would represent 6.44% of NT Power's 2024 capital budget. Therefore, even though the use of the 2024 IPI does not fully eliminate NT Power's ICM funding request, the resulting reduction would be a greater impact, and more injurious, to NT Power than it would have been to Alectra Utilities' PowerStream rate zone, had the entire ICM request been denied.

66. In addition, SEC's argument is an unfair one to NT Power, and not well-reasoned. It suggests that if the use of the 2024 IPI had completely eliminated ICM funding for NT Power, only in that case should the OEB consider approving the full requested revenue requirement. However, because the use of the 2024 IPI does not completely eliminate the requested ICM funding, NT Power should be approved a reduction of $101,835 in revenue requirement (which is still a material impact to NT Power). NT Power submits that partial funding versus no funding is not a relevant criteria or rational determinant for approving the request. The only relevant factor is the magnitude of the financial harm that comes from applying an inappropriate IPI value in the ICM model. In this case, the impact to NT Power is greater than it would have been to Alectra Utilities in the above-reference proceeding (for which the OEB made an exception given those circumstances).

B. <u>Prudence of ICM Costs</u>

67. VECC raises concerns about the increase in costs, and associated cost drivers, for the Road Widening since the Distribution System Plan (DSP). VECC requested that NT Power provide a comparison in the scope of work between the two road widening projects on Yonge street (Phase

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[53] Based on its 2011 revenue requirement, materiality for the Newmarket-Tay rate zone is approximately $85,000. See footnote 23.

1 in 2017 and the current Phase 2 proposed project in 2024) to explain the increase in costs for the Road Widening project when compared to 2017.

68. Regarding Phase 1 of the project, the project involved the installation of approximately 2.5km of primary overhead cables and not 3.2km as was noted in Appendix A of the pre-filed evidence. Although Phase 1 was longer in scope by 400 meters compared to Phase 2, the number of pole installations has a greater impact on the overall cost of the project than overhead conductor installations, due to the nature of the replacement work. The number of pole installations for Phase 2 increased by approximately 24% (68 vs. 55), resulting in increased costs. Furthermore, as mentioned in IRR 22 - VECC-1 (d), the variance can be attributed to additional scope to accommodate the relocation of existing customer services, which was minimal for Phase 1. In addition, the cost to co-ordinate and provide temporary backup generators also increased the overall project cost by approximately 29% (in 2023 dollars). Furthermore, all these factors were further affected by increased material, labour and equipment costs due to inflation, COVID-19, and general economic conditions.

69. Regarding the increase in costs as compared to that forecasted in the 2020-2024 DSP, as stated in IRR 22 - VECC-1 (d), at the time of the DSP filing, the Road Widening project was still in the early design phase and the full scope of work was not finalized. NT Power provided a high-level preliminary estimate based on Phase 1 of the Yonge Street relocation project that was completed in 2017. The customer service relocations outlined above was not considered in the cost estimate since the requirement was not known at the time. Also, due to the nature of the work and the Public Service Works on Highways Act (PSWHA), NT Power is required to contribute a larger share of the customer service relocations cost than York Region. Overall, based on the final design and scope of work, NT Power's contribution to the project increased based on the alignment to the PSHWA.