

EB-2024-0007

Algoma Power Inc

**Application for electricity distribution rates and other charges
effective January 1, 2025**

VECC Submissions October 22, 2024

Algoma Power Inc (Algoma Power) filed a distribution rate application with the Ontario Energy Board (OEB) on June 3, 2024, under section 78 of the *Ontario Energy Board Act, 1998*, seeking approval for changes to its electricity distribution rates to be effective January 1, 2025.

On August 2, 2024, the OEB issued a decision on the Issues List. As part of this decision, the OEB excluded the disposition of the commodity variance accounts 1588 and 1589, as well as Issue 6.2 pertaining to Algoma Power's request to require the IESO to settle a past Class A submission, from the set of issues eligible for settlement. The OEB noted that it will hear these issues by way of written hearing after the settlement conference.

Issue 6.2: Is the proposal for the disposition of balances in Accounts 1588 and 1589, including the request for an order as per Section 36.1.1 of the *Electricity Act, 1998* requiring the IESO to settle past Class A submissions, appropriate?

Set out below are VECC's written submissions regarding Issue 6.2.

Disposition of the Commodity Accounts 1588 and 1589

Background

VECC notes the following with respect to the historical disposition of Accounts 1588 and 1589.

EB-2021-0006

In its 2022 IRM application the OEB approved the disposition of account 1588 and 1589 debit balances as of December 31, 2020, including interest projected to December 31, 2021 on a final basis.¹

In Algoma Power's most recent IRM Applications for 2023 and 2024 rates, in both applications the OEB approved API's request to defer the dispositions in Account 1588

¹ EB-2021-0006 Decision December 9, 2021 p. 9

and 1589 pending Algoma Power's completion of further investigation into the account balances, including completing reconciliations of the accounts within the OEB's +/-1% acceptable variance level, as follows:

EB-2022-0014:

In its Decision the OEB noted that the variances with respect to Accounts 1588 and 1589 exceed the OEB's threshold of 1% such that Algoma Power is expected to provide an explanation as to the driver of those variances. In its manager's summary, Algoma Power noted that no explanation can be provided at this time and continues to investigate the drivers of the variances. In response to staff questions, Algoma Power withdrew its request to dispose of the 1588 and 1589 balances until it concludes its investigation of the drivers of the variances.²

EB-2023-0005:

In its Decision the OEB notes gain, the variances with respect to Accounts 1588 and 1589 exceed the OEB's threshold of 1% and Algoma Power was unable to identify the drivers of these variances and engaged a third-party consulting firm to assist in the investigation. Algoma Power again withdrew its request to dispose of Accounts 1588 and 1589 balances until it concludes its investigation of the drivers of the variances.

EB-2024-0007 (Current Proceeding):

As a result of the above, the 2021 and 2022 balances for these two accounts have not yet been disposed of and disposition of 2021 and 2022 balances is requested by Algoma Power in this application.

Account 1588 is used to record the difference between energy costs billed from the IESO or embedded generators, and the amounts billed to Algoma Power's customers for energy costs.

Account 1589 is used to record the difference between Global Adjustment costs billed from the IESO for non-Regulated Price Plan (RPP) customers and the Global Adjustment amounts billed to Algoma Power's non RPP Class B customers.

Algoma Power undertook a detailed internal review of the account activity and account balances and then engaged Milton Energy & Generation Solutions Inc. (MEGS) to review the account activity. MEGS conducted its review in two phases (December 31, 2023 & March 18, 2024)³ and identified adjustments that require Class A customer kWh volume information initially reported by Algoma Power to the IESO to be resubmitted with corrected values. The month of May 2021 requires a 3,445,387 kWh increase to Class A and January 2022 requires an increase of 437,136 kWh to Class A, relative to the previously submitted values. As shown in Table 1 below, these resubmissions reflect

² EB-2022-0014 Decision December 8, 2022 p. 9

³ Ex 9 Attachment 9C, Attachment 9D

reductions of \$339,087 and \$19,117 respectively in Class B Global Adjustments previously overbilled by the IESO to Algoma Power.

Table 1: Summary of Principle Adjustments Pertaining to the Order of the IESO⁴

Principle Adjustments Reported to GA Analysis Workform	Account #1588	Account #1589	Settlement True-ups Subject to 2-year Limitation
CT 148 Recalculated Settlement True-up for 2021 (May 2021)	(\$251,633)	(\$87,454)	(\$339,087)
CT 148 Recalculated Settlement True-up for 2022 (January 2022)	\$271	(\$19,388)	(\$19,117)
Total	(\$251,362)	(\$106,842)	(\$358,204)

Further to Sub-Section (7)(b), of Section 36.1.1 of the Electricity Act, Algoma Power seeks and an order from the OEB requiring the IESO to:

- a) accept the proposed adjustments to Algoma Power’s Class A values for both May 2021 and January 2022 to facilitate the final disposition of API’s 1588 and 1589 variance accounts, and
- b) make payments to Algoma Power in accordance with those adjustments so that Algoma Power may dispose of those variance accounts on a final basis.

VECC does not support Algoma Power’s request.

First, Section 36.1.1 of the Electricity Act sets out a two-year limitation period for adjustments from or to the IESO and the adjustments proposed by Algoma Power are beyond the limitation period. Specifically, the Act states:

Limitation period

36.1.1 (1) Despite anything in this or any other Act or regulation, the market rules or any licence or code issued by the Board, but subject to the regulations made under this section and to subsections (7) and (8), no market participant, consumer, entity or person shall, more than two years or other prescribed period of time after the applicable date, be entitled to seek or receive any payment, adjustment or amount, or be required to make any payment or adjustment or to pay an amount, from or to the IESO, where the payment, adjustment or amount is based on an entitlement or a specified charge that arises under an Act or a regulation, or one or more provisions of an Act or a regulation, that is prescribed for the purposes of this subsection. 2021, c. 34, Sched. 9, s. 2.

⁴ 9-Staff-71 (c)

Second, Algoma Power has not provided sufficient rationale in its application as to why the two-year limitation in the Act should not apply. The two-year limitation constrains when the IESO receives any payment or adjustment to amounts previously settled or makes any payment or adjustments. The two-year limitation period makes certain the settlement process is final.

Through its Consultant, Algoma Power identified the adjustments required to dispose of Accounts 1588 and 1589 but Algoma Power has not explained reasons why it should be exempt from the limitation period. This is the first time the OEB has been asked to clarify the limitation period requirements. Regulation changes on Limitation Periods came into effect July 1, 2023 (O. Reg. 153/23: LIMITATION PERIODS). The IESO pointed Algoma Power back to O. Reg. 153/23 and it was the IESO's view in April 2024 that it would not accept a resubmission of Class A consumption for May 2021 and January 2022 and therefore did not open those periods back up for re-submission to Algoma Power.⁵

The OEB has issued extensive Accounting Guidance related to Accounts 1588 and 1589 and Algoma Power was in the process of implementing the OEB's February 21, 2019 Accounting Guidance Related to Commodity Pass-Through Accounts 1588 & 1589 in parallel with its 2020 proceeding,⁶ and as noted above Algoma Power subsequently disposed of 2020 balances on a final basis in 2021.⁷ The objective of the guidance was to facilitate the standardization of accounting procedures to improve the accuracy of commodity pass-through variance accounts. The OEB's 2019 letter indicated that an asymmetrical approach to the correction of an error may be appropriate. In previous Decisions the OEB has noted that the onus is on distributors to conform with the Accounting Procedures Handbook and related guidance and to implement internal control processes and procedures to ensure that account balances in the DVAs are accurate. Further, the OEB expects all distributors to settle accounts expeditiously and fully with the IESO on an on-going basis irrespective of errors that may be the subject of a review or a hearing with the OEB.⁸

VECC submits Algoma Power has an obligation to settle accurately with the IESO and should have done so in a timely manner and not waited for the OEB to provide direction. As noted above, Algoma Power was aware of the account issues in its applications for 2023 and 2024 rates. Algoma Power has had adequate time and access to OEB Guidance to make the required adjustments.

Algoma Power indicates that if the OEB does not issue the requested Order requiring the IESO to resettle, Algoma Power will look to be held whole by the customers and is of the opinion that it should not be made to write off these amounts from their financial statements.⁹ Rather, Algoma Power proposes adjusting the settlements related to

⁵ 9-Staff-71(a)

⁶ EB-2020-0003 OEB Decision December 10, 2020 p.10

⁷ EB-2021-0006

⁸ EB-2023-0106 Synergy North Corporation Decision and Order 16 July 6, 2023 p.13

⁹ 9-Staff-71 (f) & (g)

Accounts 1588 and 1589 resulting in a total receivable increase in Account 1589 from customers of \$76,126 (\$73,518 from May 2021 and \$2,607.90 from January 2022).¹⁰

VECC submits the OEB should deny this further request. Current customers are not responsible for the 2020 and 2021 balances in which the adjustments pertain to and should not be held accountable for Algoma Power's error. There is no cost-causality relationship between the current customers and the error.

Summary

Algoma Power's proposal for the disposition of balances in Accounts 1588 and 1589, including the request for an order as per Section 36.1.1 of the *Electricity Act, 1998* requiring the IESO to settle past Class A submissions is not appropriate.

VECC submits the OEB should deny Algoma Power's request for an Order from the OEB regarding Class A information to be resubmitted to the IESO in conjunction with approval for disposition of Account 1588 and 1589 balances. The adjustments and payments it requires from the IESO in order to facilitate the disposition of accounts 1588 and 1589 for the years 2021 and 2022 fall outside the two-year limitation period imposed on the IESO under O. Reg. 153/23, which came into effect on July 1, 2023. Algoma Power has not provided sufficient rationale as to why it should be exempt from the regulation.

Algoma Power was in the process of implementing the OEB's 2019 Accounting Guidance related to Accounts 1588 RSVA Power and 1589 RSVA Global and Adjustment in its 2020 application and is responsible for the accuracy of the account information. Algoma Power has had ample time to review and correct entries.

Algoma Power should not be held whole for the correction as it will be at the expense of Algoma Power's current customers who are not responsible for the balances for which the accounting error pertained and clearly not responsible for the accounting error itself. Algoma Power should bear the cost of its own error.

¹⁰ 9-Staff-71 (g)