Ontario Energy Board | Commission de l'énergie de l'Ontario

BY EMAIL

July 25, 2024

Ms. Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
Registrar@oeb.ca

Dear Ms. Marconi:

Re: Ontario Energy Board (OEB) Staff Submission
Essex Powerline Corporation (Essex Powerlines)
Application for New Deferral Account
OEB File Number: EB-2024-0096/EB-2024-0022

Please find attached OEB staff's submission in the above referenced proceeding, pursuant to Procedural Order No. 2

Yours truly,

Original Signed By

Amber Goher

Digitally signed by Amber Goher
Date: 2024.07.25 16:10:50 -04'00'

Amber Goher
Advisor, Electricity Distribution Rates

Encl.

cc: All parties in EB-2024-0096/EB-2024-0022

ONTARIO ENERGY BOARD

OEB Staff Submission

Essex Powerlines Corporation

Application for New Deferral Account

EB-2024-0096/EB-2024-0022

July 25, 2024

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Background

On February 16, 2024, Essex Powerlines filed an application seeking approval to establish a new deferral account to capture commodity costs that exceed the cost of power for any kWh procured by Essex Powerlines through its PowerShare pilot project (PowerShare project).[1,2] Essex Powerlines requested approval of two sub-accounts to track local capacity cost (net of funding) and energy costs (net of funding and Hourly Ontario Energy Price). Essex Powerlines requested that the new account be effective from February 19, 2024, to March 31, 2026, covering the period of the PowerShare project.

On May 1, 2024, Essex Powerlines filed a cost of service application seeking approval for changes to the rates that it charges for electricity distribution, beginning January 1, 2025.

Both applications were filed pursuant to Section 78 of the *Ontario Energy Board Act, 1998* (OEB Act). As set out in the OEB's March 13, 2024 letter to Essex Powerlines, the OEB determined that both applications would be combined into one proceeding (referred to collectively as the Applications). The Applications were accepted by the OEB as complete on May 15, 2024, and a Notice of Hearing was issued on May 24, 2024.

On June 12, 2024, the OEB issued Procedural Order No. 1 granting Hydro One Networks Inc. (HONI), School Energy Coalition (SEC) and Vulnerable Energy Consumers Coalition (VECC) intervenor status.

On June 21, 2024, pursuant to Procedural Order No. 1, OEB staff submitted a proposed revised Issues List. On June 27, 2024, the OEB issued its Decision on Issues List, approving the proposed revised Issues List submitted by OEB staff (the Approved Issues List).[3]

On June 24, 2024, pursuant to Procedural Order No. 1, the OEB convened a transcribed presentation and technical conference specifically to address the deferral account request. Essex Powerlines filed its undertaking responses from the technical conference on July 2, 2024.

Procedural Order No. 1 prescribed a separate and expedited settlement process related to the deferral account issues (Issues 7.4 and 7.5 on the Issues List). Following a settlement conference held on July 4, 2024, the Parties arrived at time-limited partial settlement. OEB staff attended the settlement conference; however, it is not a party to

[1] Essex Powerlines received approval and funding through the IESO's Grid Innovation Fund and regulatory support from the OEB Innovation Sandbox. The DSO Pilot Project aims to alleviate known constraints on the distribution system, in the Leamington area
[2] OEB Innovation Sandbox Guidance for Essex Powerlines Corporation
[3] Approved Issues List

the partial settlement proposal.

Essex Powerlines filed the partial settlement proposal with the OEB on July 12, 2024, followed by Argument in Chief on the DVA issues on July 16, 2024.

This is OEB staff’s submission on the partial settlement proposal filed on July 12, 2024 and on the unsettled matters related to the deferral account application.

Application Summary

Essex Powerlines seeks to establish a new deferral account and sub-accounts that relate to the PowerShare project. Essex Powerlines is requesting a start date of February 19, 2024 and an end date of March 31, 2026 for the new account, referred to by Essex Powerlines as the PowerShare deferral and variance account (PowerShare DVA).

Through the PowerShare project, Essex Powerlines intends to test the concept of non-wires solutions (NWS) for alleviating system constraints and evaluate how these may affect market outcomes, including participation levels and price discovery. Up to 5,000 megawatts of electricity capacity is planned to be procured during the approximately 24 months of the pilot project at the maximum price of $300 per megawatt-hour. To achieve these outcomes, Essex Powerlines states that it plans to make payments to Distributed Energy Resource (DER) owners in two ways – for capacity and for energy. During the PowerShare project, Essex Powerlines intends to contract up to 7,500 MWh of capacity [*sic*], secured at an estimated cost of $39.90/MWh, which is approximately 14% of the maximum $300/MWh.[4] These payments to the DER owners will be offset 50% by funding through the Independent Electricity System Operator (IESO)'s Grid Innovation Fund (GIF).[5] When the capacity is activated, project participants will be paid for energy at a contracted rate determined by the market platform based on signals of location, quantity and price. Energy will be purchased at rates budgeted not exceeding the remaining 86% of the maximum $300/MWh. These payments will be offset 50% by the GIF funding, and the Hourly Ontario Energy Price (HOEP) [6].

Essex Powerlines states that the PowerShare DVA will only record the costs incurred that are greater than the cost of power, are the direct result of participating in the PowerShare project and are not covered by IESO funding. Only amounts that are paid to project participants to procure capacity and energy that exceed the price at which electricity could be purchased from the IESO's grid (i.e., the HOEP in the existing market) and net of the 50% IESO GIF funding will be considered for recovery and inclusion in this deferral account.

Essex Powerlines claims these costs will be incurred in support of both near- and long-

[4] EB-2024-0096 DVA application, p.2
[5] The Grid Innovation Fund advances innovative opportunities to achieve electricity bill savings for Ontario ratepayers by funding projects that either enable customers to better manage their energy consumption or that reduce the costs associated with maintaining reliable operation of the province's grid. The GIF also supports projects that identify and mitigate market barriers, or otherwise accelerate the adoption of competitive cost-effective energy solutions.
[6] HOEP is to be replaced by the sum of the Day-ahead Market Ontario Zonal Price and the Load Forecast Deviation Charge resulting from the anticipated implementation of the IESO's Market Renewal Program (MRP).

term goals. The stated near-term intention is to demonstrate the reliability, availability, and fitness of locally-sourced energy to address known distribution/transmission-level constraints. In the mid- and long-term, Essex Powerlines expects that this project will contribute to the exploration of mitigating the capacity constraints expected to materialize in diverse regions and across Ontario.

OEB Staff Submission

The Parties agreed to a partial settlement proposal which allows the creation of a PowerShare DVA for the summer months beginning July 1, 2024 through August 31, 2024 (Summer Months DVA). The issue of setting up the PowerShare DVA after August 31, 2024 remains unsettled. OEB staff makes the following submissions on the issues applicable to the PowerShare DVA:

Partial Settlement Proposal

Staff submission on partial settlement proposal

OEB staff does not take issue with the partial settlement proposal filed by the Parties.

The Parties agreed to establishing the new PowerShare DVA and sub-accounts to accrue amounts paid to PowerShare participants for local capacity and/or local energy, net of IESO project funding and HOEP (if applicable), over the period beginning July 1, 2024 through August 31, 2024, subject to a maximum accrual of $127,500 (the Summer Months DVA). The Summer Months DVA is intended to operate as a minimum level of recovery during the summer months. Any further potential recovery for July and August, 2024 and the remainder of the term of the PowerShare project would be dependent on the OEB's disposition of the DVA application.

Essex Powerlines expects the summer months of July and August may result in up to 50% of the annual capacity and energy procured as part of the PowerShare project. The Parties agreed in the partial settlement proposal that, "Without adequate certainty regarding recovery of a portion of the amounts paid to PowerShare participants for local capacity and/or local energy, EPLC may be forced to postpone the project and risk its cancellation as a result of the terms of its agreement with the IESO."[7]

OEB staff supports establishing a Summer Months DVA. OEB staff agrees with the Parties that it will allow the PowerShare project to operate during the summer months while providing time to the Parties to make submissions on the critical issues being contemplated in the DVA application; and that the Summer Months DVA is a compromise that provides time-limited relief with a sharing of the cost recovery risk between ratepayers and the Essex Powerlines shareholders for amounts paid to PowerShare participants not recovered from the IESO. As noted above, the Summer

[7] EB-2024-0022/EB-2024-0096 Partial Settlement Proposal, p. 8

Months DVA is further subject to a maximum accrual limit of $127,500. [8]

In conclusion, OEB staff supports the partial settlement proposal as a reasonable temporary settlement while not committing to the full relief requested in the DVA application. The settlement mitigates the risk of outright and early cancellation of the PowerShare project based on the terms of Essex Powerlines' agreement with the IESO. OEB staff has no concerns with the Draft Accounting Order attached as Appendix A to the partial settlement proposal.

Request for New Deferral Account (issue 7.4)

Is the proposal for a new account to accrue commodity costs that exceed the cost of power for any kWh procured by Essex Powerlines through the Distributor's PowerShare Project (EB-2024-0096) appropriate?

OEB staff does not take issue with Essex Powerlines' request for the Powershare DVA. As Essex Powerlines noted in its Argument-in-Chief, the project will explore local DERs' potential to cost effectively mitigate needs ahead of proceeding with traditional wires solutions in the Kingsville-Leamington area and elsewhere throughout Essex Powerlines' service areas. In the mid- and long-term, the project will contribute to the exploration of mitigating the constraints that are expected to materialize in diverse regions and across Ontario. OEB staff recognizes these potential benefits.

OEB staff understands that cross-subsidization may occur between Essex Powerlines' customers and the other customers in Ontario, as the IESO would only be funding 50% of the capacity and energy costs. OEB staff notes that such subsidization is not unprecedented. Distributors' investments in eligible renewable generation projects were funded partially by the distributors' own customers (and partially by the IESO) under Regulation 330/09, notwithstanding that benefits from those projects accrued to customers beyond the distributors' service areas.

The DVA should be capped at the estimated maximum of $554,525, with disposition subject to a standard prudence assessment, for the following reasons:

- The activities undertaken by Essex Powerlines through the PowerShare project constitute distribution activities.
- The PowerShare project provides value to Essex Powerlines' customers. As noted above, OEB staff recognizes that Essex Powerlines customers may benefit from the ability to use NWSs to reduce the costs of serving future electricity demand.
- The proposed PowerShare DVA meets the eligibility criteria for establishing a

[8] This amount has been determined based on estimated participation in the local energy market over July and August 2024 of up-to 850 MW (which is approximately 50% of the Phase 1 target of 1,700 MW) net of 50% project funding and not to exceed the maximum of $300.00 per MW as budgeted in the project proposal and contribution agreement (850 MW X $300 X 50% = $127,500).

new deferral and variance account (causation, materiality, and prudence).

- The maximum cost cap is based on maximum capacity, and it provides certainty regarding the IESO funding and the estimated HOEP. This cap mitigates exposure to Essex Powerlines' customers.

The PowerShare Project as a Distribution Activity

OEB staff submits that the activities Essex Powerlines will undertake through the PowerShare project, as described in its Application, constitute distribution activities within the meaning of s. 71(1) of the OEB Act. This view remains consistent with OEB staff's view provided to Essex Powerlines through the OEB's Innovation Sandbox in a letter dated May 31, 2022. OEB staff offers the following additional details in this regard:

Guidance through Innovation Sandbox

In the May 31, 2022 letter provided through the Innovation Sandbox, OEB staff provided its view that the activities Essex Powerlines proposed to undertake in the "Essex Powerlines DSO Pilot Project" constitute distribution activities under s. 71(1) of the OEB Act. The complete rationale for staff's view is provided in the letter filed by Essex Powerlines as part of the DVA application.

Further Detail in Definition of PowerShare project

Additional features of the PowerShare project became clearer through the DVA application. While OEB staff's Innovation Sandbox guidance assumed a third party would compensate DER participants using funding from the IESO's GIF,[9] the DVA application notes that Essex Powerlines proposes to recover from ratepayers a portion of the costs for payments to DER participants, and that a portion of that recovery would be for payments related to energy.[10] Specifically, the DVA application indicates that the IESO will provide 50% of the energy and capacity costs in the PowerShare project, and that Essex Powerlines proposes for recovery from ratepayers any remaining costs for payments net of project funding and net of revenue from energy priced at HOEP in the real-time market administered by the IESO. Essex Powerlines estimates the cost recorded in the requested DVA could to be up to $554,525 for capacity and energy combined.[11]

Payment for Energy as Activation in Service of Capacity Need

This recovery of costs for payments to DER participants raised a larger question of

[9] Innovation Sandbox Letter dated May 31, 2022, p. 2. As noted in the letter, "OEB staff's understanding is that NODES [a project partner] will act as an intermediary between EPLC and DER owners in the local market, meaning that EPLC will not directly procure services from local DER owners. Rather, NODES will provide all market settlement functions between DER owners and EPLC, meaning NODES is responsible for paying DER participants using [Grid Innovation Fund] funds."
[10] EB-2024-0096 DVA Application, p 2; Technical Conference Transcript, p. 42.
[11] EB-2024-0096 DVA Application, p 4.

whether a distributor's transactions for energy, as contemplated in the PowerShare project, constitute a distribution activity under s. 71(1) of the OEB Act. OEB staff submits that this remains a distribution activity, for the following reasons:

- The activities that Essex Powerlines will undertake are consistent with the OEB's *Non-Wires Solutions Guidelines* (NWS Guidelines), which state that "distribution rate-funded NWSs are expected to address a specific system need, at the distribution level or the regional level."[12]
- Although the PowerShare project involves transactions for energy, these transactions are activation payments in service of a capacity need,[13] and are therefore consistent with the use of an NWS to meet a system need and can be considered a distribution activity. This is distinct from a procurement of energy, in the absence of a transmission or distribution capacity constraint, to meet general supply needs within a territory.
- Insofar as activation payments for the PowerShare project are contemplated outside the context of an immediate system need, these payments remain consistent with the purpose of a pilot project of this nature, which would explore the technical capability of the platform to meet a foreseeable capacity need in a future, wider deployment.[14]

OEB staff also notes that neither OEB staff's guidance provided by the Innovation Sandbox, nor the IESO's funding through the GIF, constitutes OEB approval of distribution rate funding for the PowerShare project. Requests for distribution rate funding for the PowerShare project are subject to OEB approval through an application to the OEB, such as the present DVA application; a cost of service application to address any capital and operations, maintenance and administration costs related to the PowerShare project; and/or a request for approval of the disposition of the DVA balance.

<u>Value of PowerShare project to Essex Powerlines' Customers</u>

OEB staff submits that the PowerShare project has value to Essex Powerlines' customers due to the potential benefits of the PowerShare project to Essex Powerlines' customers in regard to the future use of DERs to address system needs for Essex Powerlines, taking into account the PowerShare project costs that would be borne by Essex Powerlines' customers. This is consistent with the intent of the OEB's NWS Guidelines to enable distribution rate funding for NWSs that can avoid/defer infrastructure investments.

Additional details are provided below. The issue of whether it is appropriate to record costs in this account prior to the effective date of Essex Powerlines' new base rates

[12] Non-Wires Solutions Guidelines, p. 6.
[13] Technical Conference transcript, p.8, line 5 to 17.
[14] Technical Conference transcript, p. 45, line 6 to 14.

(Essex Powerlines has requested a January 1, 2025 effective date for its rebased rates) is addressed separately under Issue 7.5.

OEB Policy Guidance on Funding Innovation and Non-Wires Solutions

One of the OEB's objectives in carrying out its responsibilities under the OEB Act in relation to electricity is to facilitate innovation in the electricity sector, which is taken into consideration (along with the OEB's other objectives) in its review of distributor proposals in cost-based applications.[15] In recent years, the OEB has placed increased emphasis on distributor consideration of NWSs to address system needs, through the *Framework for Energy Innovation*, the NWS Guidelines, and the *Benefit-Cost Analysis Framework for Addressing Electricity System Needs* (BCA Framework), which outlines the methodology that distributors are to employ when assessing the economic feasibility of using NWSs to address system needs.

Essex Powerlines indicated that disposition of the PowerShare DVA would be sought based on the guidance provided in the OEB's *Conservation and Demand Management Guidelines for Electricity Distributors* (CDM Guidelines).[16] Subsequent to Essex Powerlines' application, the CDM Guidelines were replaced by the NWS Guidelines, although much of the relevant guidance is unchanged.

The NWS Guidelines enable distributors to seek distribution rate funding for NWSs for the purpose of meeting identified distribution system needs or regional needs.[17] Essex Powerlines noted that the PowerShare project is not intended to defer or avoid any specific project spending to address a system need within the rebasing term.[18] For this reason, Essex Powerlines cannot strictly meet the evidentiary requirements in section 3.2 of the NWS Guidelines, which require a distributor to provide evidence as to why the proposed NWS is the preferred approach to meeting a system need, including an assessment of the projected benefits to customers relative to cost impacts using the BCA Framework.[19] However, Essex Powerlines agreed that the requirement in the NWS Guidelines to show how the proposed project would contribute to addressing a distribution system need is relevant to the OEB's consideration of distribution rate funding for the PowerShare project.[20] Essex Powerlines indicated that the value of the PowerShare project is in providing learnings that would potentially avoid or defer future infrastructure spending beyond the rebasing period.

As described in the GIF application,[21] the PowerShare project is intended to allow Essex Powerlines to better utilize new and existing DERs to create flexibility within its

[15] OEB Act, section 1(1)4; *Filing Requirements for Electricity Distribution Rate Applications*, section 2.1.7
[16] EB-2024-0096 DVA Application, p.2
[17] Section 3.1
[18] Technical conference transcript, p. 50
[19] The BCA Framework was not issued by the OEB until May 16, 2024, after Essex Powerlines had submitted its application.
[20] Technical conference transcript, p. 49
[21] JT 1.3, Appendix B, Schedule C (Project Proposal), section 1.7

distribution system and mitigate local constraints on the grid. A software platform (NODES) would enable a pilot marketplace to be created, allowing DER owners participating in the pilot to sell flexibility. In addition, coordination with the IESO would be explored to ensure interoperability protocols, coordination instructions and prioritization of services between the IESO, DER asset and distributor are met.

Based on the pilot description in the GIF application, OEB staff believes the PowerShare project will be valuable in providing useful learnings on how to use NWSs to address electricity system needs, at the local, regional, and provincial levels. OEB staff also views the IESO's financial support through the GIF as a vote of confidence in the value of the PowerShare project.

Costs and Benefits to Essex Powerlines

OEB staff believes that the learnings from the PowerShare project will benefit Essex Powerlines, and the IESO, and potentially others in the sector. The NWS Guidelines discuss some relevant considerations for cost responsibility for an NWS where there are multiple beneficiaries.[22] As noted in the NWS Guidelines, the OEB's responsibility is to review the cost and associated rate impacts of the NWS for rate-regulated transmitters and distributors, i.e., net of any funding provided by the IESO or other sources. The OEB does not have the authority to mandate an adjustment to the cost-sharing approach to require cost recovery from the IESO or other program partners that are not rate-regulated.

The costs associated with the proposed new deferral account cannot be considered in isolation of consideration of the overall cost and value of the PowerShare project to Essex Powerlines' customers. The total estimated cost of the PowerShare project to Essex Powerlines is $1.134 million of the total project cost (excluding in-kind contributions) of $7.255 million,[23] This amount is inclusive of the maximum estimated cost to be recorded in the proposed new deferral account for payments to DERs ($554,525),[24] but also includes other costs recovered from base rates in 2024, or proposed to be recovered in base rates in 2025 and future years.[25] Essex Powerlines confirmed that its expectation is that 100% of its share of costs for the PowerShare project would be recovered from its customers through rates (base rates and/or the deferral account), not from shareholders.[26]

With regard to benefits to Essex Powerlines specifically, Essex Powerlines indicated that learnings from the PowerShare project are expected to be widely applicable in addressing its current and future needs and the potential use of DER to address these needs. Essex Powerlines noted several known distribution system needs that learnings

[22] Section 4.3
[23] JT 1.3, Appendix B (GIF Contribution Agreement), p. 13
[24] EB-2024-0096 DVA Application, p.3
[25] EB-2024-0022, Exhibit 2, p. 37, 43
[26] Technical conference transcript, pp. 41-42

from the PowerShare project could potentially help address in the future. Essex Powerlines has several feeders (M27 and M24) where load often exceeds the recommended 50% threshold during periods of peak demand.[27] Essex Powerlines further indicated that other similar needs exist in all of its service territories, and it is anticipated that due to economic development and residential growth in the region, occurrences of these overload conditions will increase. A key driver of increased electrical demand is the high rate of growth in the greenhouse sector in the Windsor-Essex region.[28] Additional transmission-level capacity constraints in the Windsor-Essex region have also been identified through the Integrated Regional Resource Planning process.[29] Essex Powerlines would bear some share of the cost for addressing these constraints.

OEB staff also notes that:

- The reporting milestones in the GIF Contribution Agreement will require Essex Powerlines to document its learnings, specifically including the savings created for customers, the value of NWSs to Essex Powerlines, and a qualitative and quantitative analysis of mitigation of large build-out costs of assets.[30] Essex Powerlines has indicated that this work would be informed by the OEB's BCA Framework.[31]
- Essex Powerlines should emerge from the PowerShare project with increased ability to make use of NWSs to address system needs beyond the pilot period. As a result of the pilot, Essex Powerlines will have also recruited an initial base of participating DER resources within its service territory, and made grid investments that facilitate running a local market. Should DERs prove cost-effective, these advances will have value beyond the length of the pilot.

Benefits to Essex Powerlines' customers in the form of reduced infrastructure costs cannot be guaranteed; this is only a pilot project. However, OEB staff submits that the potential benefits of the PowerShare project to Essex Powerlines justify the costs that would be borne by its customers at this time.

PowerShare DVA: Not a Commodity Pass-through Account

Essex Powerlines states, in its Argument-in-Chief, that the requested DVA to record the commodity costs incurred through the PowerShare project is similar to the OEB's commodity pass-through accounts 1588 and 1589 "because EPLC, rather than the IESO, will be acting as a Distribution System Operator to procure both capacity and energy services on behalf customers".

[27] JT 1.9
[28] PowerShare Market Eligibility Rules, section 1.6 (p. 175 in PDF of Undertaking Responses)
[29] Argument-in-Chief, Essex Powerlines Corporation, pp. 4-5
[30] JT 1.3, Appendix B (GIF Contribution Agreement), pp. 18-22 (reporting milestones 3-5)
[31] Technical conference transcript, pp. 54-55

While OEB staff recognizes that the distributors do not make a profit or loss on the commodity cost, OEB staff is of the view that the PowerShare DVA is not a commodity pass-through account for the following reasons:

- Account 1588 and Account 1589 are the commodity pass-through accounts for the distributors in the IESO-administered market. As defined in the OEB Accounting Guidance that the term “commodity” is used for both energy (“energy” and “power” are used interchangeably in the Accounting Guidance)[32] and Global Adjustment. However, in this Application, the project is to test the local DER market. To achieve the project’s objectives, Essex Powerlines planned to compensate the local DER participants for capacity and energy. Consequently, the amounts to be recovered from Essex Powerlines’ customers will include not only the energy generated by the local DER participants but also the capacity payment proposed for compensating these test participants for the contracted capacity. In addition, the energy price offered to the DER participants, combined with the capacity payment would be higher than the HOEP. Essex Powerlines states that the combined price would be no more than $300/MWh.
- The disposition of the OEB’s pass-through variance accounts including Account 1588 and Account 1589 does not require a prudence review – the balances are calculated mechanistically and are disposed of in the distributor’s annual IRM application when certain thresholds are met or in a cost of service application if one is scheduled to be filed. However, the Powershare DVA requires a prudence review at the time of the disposition.
- The variances in the pass-through commodity accounts are not expected to be material because they include price variances from timing and quantity variance from line losses. However, the proposed new DVA by Essex Powerlines may hold a significant balance of up to $554k (based on estimated HOEP).

Based on the journal entry on the local energy payment proposed by Essex Powerlines, the portion of energy that could be procured in the IESO market pertaining to the HOEP is transferred to and reflected in the commodity DVA 1588. Furthermore, Essex Powerlines confirmed in the technical conference that any energy purchased through the PowerShare project will be reported to the IESO through the monthly settlement as part of Essex Powerline’s Embedded Generation total to ensure the appropriate amount of Class B global adjustment will be charged to Essex Powerlines through the settlement process. As a result, the commodity and global adjustment variances pertaining to the energy that could be procured in the IESO market are still going to be recorded in Account 1588 and Account 1589 .[33] Based on the above, OEB staff is of the view that the PowerShare DVA requested in this Application, although being used to record the commodity costs incurred through the PowerShare project, is not similar to

[32] Accounting Guidance Related to Commodity Pass-Through Accounts 1588 & 1589 (February 21, 2019) (oeb.ca), p.4
[33] Technical conference transcript, pp. 63-65

the commodity pass-through accounts. Instead, the essence of the account is to compensate the local DER participants for the energy generated in the local market.

While there are many moving parts to the PowerShare project, OEB staff does not take issue with the establishment of the account because the project is considered a distribution activity, has value to Essex Powerlines' customers and has met the eligibility criteria of a new DVA (causation, materiality and prudence).

Eligibility Criteria for the Establishment of the PowerShare DVA:

OEB staff notes that the requested DVA and sub-accounts meet the causation, materiality, and prudence criteria for establishing new accounts as stated in the Chapter 2 of the OEB's *Filing Requirements for Electricity Distribution Rate Applications* (Filing Requirements)[34].

Causation

Under the causation criterion, the OEB requires that, in order to establish an account, the forecasted expense must be clearly outside of the base upon which rates were derived. Essex Powerlines confirms that the forecasted amount of $554,525 has not been contemplated in the established rates of Essex Powerlines.

OEB staff agrees with Essex Powerlines that the criterion for causation is met. OEB staff notes the costs to be recorded in the PowerShare DVA will directly result from the PowerShare Pilot as only the amounts net of the HOEP and 50% of the project funding from the IESO will be considered for recovery and inclusion in the PowerShare DVA.

Materiality:

Chapter 2 of the Filing Requirements states that, in order to establish an account, the forecasted amounts must both exceed the OEB-defined materiality threshold and have a significant influence on the operation of the utility. Essex Powerlines states that the forecasted total of $554,525 over the 21-month period of the PowerShare project exceeds Essex Powerlines' materiality threshold of $62,126 based on its approved 2018 revenue requirement. OEB staff notes that the materiality threshold in Essex Powerlines' current cost of service application is $92k.[35]

OEB staff submits that the annual forecast amount of $554k exceeds Essex Powerlines' materiality threshold in its previous and current rebasing applications. Therefore, OEB submits that the new DVA requested in this Application meets the materiality criterion for the new account. However, OEB staff is of the view that the maximum allowable amount to be recorded in the PowerShare DVA should be capped at the estimated

[34] Chapter 2 *Filing Requirements for Electricity Distribution Rate Applications*, December 15, 2022, S.2.9.3, p. 66-67
[35] EB-2024-0022, Exhibit 1

maximum cost of $554,525, for reasons explained below.

Prudence:

In its Application and Argument-in-Chief, Essex Powerlines states that the costs will be incurred prudently in support of both near- and long-term goals. In the near term, Essex Powerlines intends to address known distribution/transmission-level constraints in the Kingsville-Leamington area and elsewhere throughout the Essex Powerlines service areas. In the mid-and-long term, the PowerShare project will contribute to the exploration of mitigating the constraints that are expected to materialize in diverse regions and across Ontario. Essex Powerlines further states that not pursuing the PowerShare project would be imprudent, "especially considering the Government of Ontario's focus on DSO and the utility of the future, the financial support demonstrated by the IESO, the regulatory support from the OEB, and the need for real data on local DERs to drive prudent investment decision making in the EPLC service area."[36]

According to Chapter 2 of the OEB's Filing Requirements[37], to establish a new DVA, the nature of the amounts and forecast quantum to be recorded in the proposed PowerShare DVA must be based on a plan that sets out how the amounts will be reasonably incurred, although the final determination of prudence will be made at the time of disposition. For any costs incurred, the distributor must prove the chosen option represented a cost-effective option (not necessarily the least initial cost) for ratepayers.

OEB staff submits the prudence criteria for establishing the Powershare account has been met in this application. OEB staff notes that the prudence of costs recorded in the account will be determined when Essex Powerlines seeks to dispose of the PowerShare DVA balance.

<u>Maximum Amount that Can Be Recorded in the PowerShare DVA</u>

Essex Powerlines states the total project budget is set at 5,000 MWh and $300/MWh for energy. It is estimated that 7,500 MWh of capacity [*sic*] would need to be contracted to meet the 5,000 MWh energy threshold". [38]

As the proposed cost to be recorded in the PowerShare DVA is the amount net of HOEP and 50% IESO funding, OEB staff notes that fluctuations in HOEP and IESO funding could directly impact the portion of the PowerShare project to be recovered from ratepayers. OEB staff identifies the following three potential factors that could increase the amounts recoverable from ratepayers to an amount greater than the estimated $554k:

[36] Argument-in-Chief, p.9
[37] OEB *Filing Requirements for Electricity Distribution Rate Applications*, December 15, 2022, s.2.9.2, p.66-67
[38] JT 1.1

- Potential of Reduced Funding from IESO: According to the Grid Innovation Fund Contribution Agreement[39], $255k of the Milestone 3 contribution payment is based on 1,700 MW of cumulative capacity traded across the duration of Milestone 3, running Phase 1 of the market pilot. This funding from the IESO may be reduced accordingly and proportionally if cumulative traded capacity is reduced. Additionally, $495k of the Milestone 4 contribution payment is based on 3300 MW of cumulative capacity traded across the duration of Milestone 3, running Phase 1 of the market pilot. This funding from the IESO for this milestone may also be reduced accordingly and proportionally if cumulative traded capacity is reduced. As the costs to be recovered by Essex Powerlines' customers are net of IESO GIF funding and HOEP, reductions in IESO funds would result in customers bearing a higher portion of the total cost.
- Fluctuation in HOEP: As confirmed in the technical conference, Essex Powerline's estimated local energy cost is based on an estimated average HOEP of $38.70/MWh, but the actual HOEP will be used for the hours of operation and settled.[40] According to the HOEP posted by the IESO[41], the average HOEP for 2022 and 2023 was $38.4/MWh which aligns with Essex Powerlines' estimated average HOEP of $38.70/MWh. However, OEB staff notes that fluctuations in HOEP could impact the costs allocated to Essex Powerlines' customers, as the current year to date average HOEP is $31.60/MWh. Given that the costs to be recovered by Essex Powerlines' customers are net of IESO GIF funding and HOEP, a lower-than-estimated average HOEP would result in customers bearing a higher portion of the total cost.
- Potential Increase in Funding Needs Resulting from the Implementation of the IESO Market Renewal Program (MRP): The calculation for the forecast is based on an estimated average HOEP of $300/MWh in the existing IESO administered market. However, the implementation of the IESO MRP is expected to be in place effective May 1, 2025,[42] at which time the HOEP is to be replaced by two settlement prices for energy (the day-ahead market Ontario Zonal Price and the Load Forecast Deviation Adjustment). The energy prices under the IESO's MRP market are unknown and may be subject to increased fluctuation as compared to the HOEP in the current market.

OEB staff submits that the maximum amount to be recorded in the PowerShare DVA should be capped at an estimated maximum cost of $554,525. The $554,525 is provided by Essex Powerlines in its evidence. It reflects 50% IESO funding and is net of the estimated HOEP of $38.72. OEB staff is of the view that this cap is reasonable because it is based on maximum capacity, and it provides certainty regarding the IESO funding, and the estimated HOEP used appears reasonable. This cap is intended to

[39] JT 1.3, Appendix B (GIF Contribution Agreement), p. 18-19 (reporting milestones 3 and 4)
[40] Technical conference transcript, pp. 10-11
[41] Hourly Ontario Energy Price (HOEP) (ieso.ca)
[42] Market Renewal Program Project Status (ieso.ca)

provide sufficient limits on the likely exposure for Essex Powerlines' customers. Any additional costs should be borne by Essex Powerlines' shareholders. In the event that the actual cost is lower than the cap, Essex Powerlines should record the actual amount in the DVA.

<u>Disposition and True-up</u>

OEB staff has reviewed the Draft Accounting Order provided by Essex Powerlines[43] and is of the view that in its reply submission, Essex Powerlines should provide a revised draft Accounting Order to include the following:

1. The proposed timing of disposition of the balances, i.e., in which rate application does Essex Powerlines plans to bring forward the disposition of the account?
2. A brief description of the true-up adjustment is to be recorded in the PowerShare DVA and then recovered from ratepayers as explained in the Technical Conference.[44]

Effective Date for the Proposed Account (issue 7.5)

Is the proposed effective date for the new account proposed in EB-2024-0096 appropriate?

In its Argument-in-Chief, Essex Powerlines states that an effective date of February 19, 2024, for the PowerShare DVA is appropriate because the requested effective date aligns with the launch of the PowerShare project, and "it was not possible for EPLC to identify the need for the PowerShare DVA until the vast majority of the PowerShare Pilot design and implementation was completed and EPLC moved to the underlying accounting entries that would be necessary to track the flow of funds."[45]

OEB staff submits that, if the PowerShare DVA is approved, it is reasonable to have the effective date of the account as July 1, 2024, aligning with the effective date of the Summer Months DVA addressed in the partial settlement proposal, for the following reasons:

- Alignment with the Launch of the PowerShare project: The proposed effective date corresponds with the launch of the PowerShare project, as confirmed by Essex Powerlines.[46]
- Alignment with the Effective Date of the Summer Months DVA: The effective date of July 1, 2024 aligns with the effective date of the Summer Months DVA, allows for the recording of the transaction costs in the summer peak months. As discussed in the "Partial Settlement Proposal" section, the Summer Months DVA

[43] JT 1.6, Appendix A (Draft Accounting Order)
[44] Technical conference transcript, p. 64- 66
[45] Argument-in-Chief, p.8
[46] Argument-in-Chief, p.8

would allow Essex Powerlines to fully test the platform and record the costs in the account.

- Minimal Cost Incurred Before July 1, 2024: In the Technical Conference, Essex Powerlines states that the total cost incurred to date related to the project amounts to about $3,500, all of which was for test or sample transactions incurred prior to the proposed effective date.[47] Therefore, there is no significant financial impact on Essex Powerlines by setting the effective date as July 1, 2024.

In conclusion, OEB staff supports Essex Powerlines' request for the PowerShare DVA. However, there is one other matter OEB staff wishes to address. In its Argument-in-Chief, Essex Powerlines states "It is noteworthy that while EPLC brought its PowerShare Pilot to the OEB's innovation sandbox seeking regulatory guidance, OEB staff did not, at that time, identify a need for the PowerShare DVA." OEB staff does not agree with the suggestion that OEB staff neglected to inform Essex Powerlines of the need for a DVA when Essex Powerlines brought its project to the Innovation Sandbox.

OEB staff's letter, providing the OEB Innovation Sandbox for Essex Powerlines dated May 31, 2022, states that "OEB staff has focused on the specific regulatory questions EPLC put to us; we have not turned our minds to any other regulatory issues that may arise in connection with the Pilot Project". Further, Essex Powerlines states in its Argument-in-Chief that "it was not possible for EPLC to identify the need for the PowerShare DVA until the vast majority of the PowerShare Pilot design and implementation was completed and EPLC moved to the underlying accounting entries that would be necessary to track the flow of funds". Based on this, it is clear that the need for a DVA only became apparent to Essex Powerlines after it had further defined the PowerShare project.

~All of which is respectfully submitted~

[47] Technical conference transcript, p. 22 and p. 57