



November 5, 2024

Ms. Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street, 27th floor
Toronto, ON M4P 1E4
Office of the Registrar <Registrar@oeb.ca>

Dear Ms. Marconi:

**RE: EB-2024-0007 – Algoma Power Inc. Cost of Service
Distribution Rate Application for Rates Effective January 1, 2025
Submission on Issue 6.2**

Please find accompanying this letter, a copy of Algoma Power Inc's reply submissions in response to the submissions provided by SEC, VECC, the IESO and OEB Staff on the outstanding unsettled issues with respect to the proposed clearance of accounts 1588 and 1589.

Electronic copies of the reply submission and accompanying electronic files have been submitted via the Board's Regulatory Electronic Submission System.

Please direct any questions or correspondence in this matter to the undersigned.

Sincerely,

Brian Vander Vloet

Brian Vander Vloet
Director, Finance
RegulatoryAffairs@FortisOntario.com

CC: Birgit Armstrong, OEB Staff

Algoma Power Inc.

Submission on Issue 6.2

EB-2024-0007

November 5, 2024

OVERVIEW

1. These are the submissions of Algoma Power Inc. (“API”) in response to the submissions provided by SEC, VECC, the IESO and OEB Staff on the outstanding unsettled issues with respect to the proposed clearance of accounts 1588 and 1589.
2. As a general overview, API’s submissions propose a disposition of accounts 1588 and 1589 for the years 2021 and 2022 that, pursuant to the work undertaken by API to review the account entries for those years, provides updated balances for approval that reflect an appropriate reconciliation from the perspective of API’s customers; these balances and the associated disposition riders provided by API are provided as Schedule 1 to this submission. In API’s submission the approval of the attached Schedule 1 continuity schedule and resulting disposition riders to the benefit of API’s customers could be approved by the OEB regardless of either the OEB’s decision as to API’s request for a settlement adjustment from the IESO or the OEB’s decision on how IESO should provide any approved settlement adjustment to API.
3. With respect to API’s request for an order directing the IESO to provide settlement adjustments outside of the newly operational two-year limitation period, and as described in more detail below, API, through this submission, agrees to absorb all the monthly variances identified through the review process other than the May 1, 2021, variance of \$346,261. It is API’s respectful submission that, based on all the circumstances, including:
 - a) API’s good faith efforts to determine the most accurate reconciliation of its 1588 and 1589 accounts for the years 2021 and 2022 rather than seek a premature final disposition of those accounts for those years and, possibly, have to seek a retroactive adjustment to any such premature final disposition,
 - b) the uniqueness of the timing in this application, in that the limitation period that now requires the OEB to exercise its authority pursuant to section 36.1.1 (7) (b) of the *Electricity Act, 1998*, S.O. 1998, c. 15, Sched. A (The “Act”) only became effective for the May 2021 adjustment of \$346,261 that API is seeking approximately 2 months after it expired,
 - c) refusing the requested settlement adjustment amounts to a \$346,261 windfall to the IESO that the IESO is not actively seeking to retain, and
 - d) while API believes it would be unreasonable for it to experience a loss or penalty in the circumstances leading to the timing of the requested adjustment, API is nonetheless absorbing approximately \$87,000 in losses to fund the disposition of the correct amounts to its customers.

- e) the OEB should direct the IESO to make the requested \$346,261 adjustment in relation to the May 2021 variance.
4. With respect to the manner of the adjustment, API agrees with the submissions of the IESO as to how the adjustment can be made.

THE ISSUES

5. There are three outstanding issues for the OEB to determine with respect to the proposed clearance of accounts 1588 and 1589:
- a) Are the proposed balances for disposition in accounts 1588 and 1589 for the years 2021 and 2022 appropriate?
 - b) Should the OEB provide directions to the IESO that, pursuant to section 36.1.1 (7) (b) of the Act, would permit and direct the IESO to make settlement adjustments between it and API for the years 2021 and 2022?
 - c) In the event the OEB directs the IESO to make any settlement adjustments, in what manner should those adjustments be made?
6. With respect to the 2021 and 2022 balances proposed for disposition in relation to accounts 1588 and 1589 it appears to API that no party disputes the accuracy of API's calculations. As noted in the evidence and the submissions of the parties, API engaged Milton Energy & Generation Solutions Inc. (MEGS) to perform a detailed review of accounts 1588 and 1589 for the years 2021 and 2022.¹ After an exhaustive review of the subject years MEGS was able to identify the drivers behind the variances and the adjustments that reconcile accounts 1588 and 1589 for final disposition by the OEB, subject to a correction noted by OEB Staff in its submission, which API agrees is appropriate.²
7. Accordingly, API attaches as Schedule 1 to this submission a revised DVA continuity schedule and associated rate riders that reflect the clearance of accounts 1588 and 1589 assuming that all the adjustments identified as a result of the MEGS report (including the noted correction) are made, regardless of whether those adjustments are funded by the IESO, API, or a combination of both. It is API's respectful submission that the OEB can approve the Schedule 1 DVA continuity schedule and proposed riders regardless of its decision on how adjustments are to be funded.

¹ Exhibit 9, page 20, attachments 9C and 9D.

² OEB Staff Submission, page 7.

8. API notes that the attached Schedule 1 material is different than what was included in its application, even after accounting for the correction noted by OEB Staff. This is because in its original application with respect to the 1588 and 1589 accounts for 2021 and 2022, API was not suggesting that all the variances quantified in the MEGS report should be reconciled with the IESO.
9. As summarized in Schedule 2 to this submission, API's original proposal was to only reconcile the May 2021 variance of \$346,261 and the January 2022 variance of \$19,117 with the IESO, as those two variances were significant contributing factors leading to the total variances in 2021 and 2022 exceeding the 1% threshold that ultimately compelled API to defer the disposition of the accounts until the variance could be explained and, if necessary, reconciled. It was API's original intent that the remainder of the variances, totalling a net amount of \$19,744, would remain unreconciled, as would have been the case had the May 2021 and January 2022 variances not driven the variances in those years beyond 1%. These variances had also remained in the total Class B Global Adjustment paid in MEGS recalculations of the RPP settlements as summarized in Tables 16 and 17 of the Stage 2 report.
10. However, it has become apparent to API through OEB Staff's submission that OEB Staff believed, incorrectly, that in not seeking adjustments with respect to the other months totalling a net amount of \$19,744 that API was proposing to itself absorb those variances. Similarly, through interrogatory response 9-Staff-71 d), OEB Staff incorrectly believed that API was suggesting that it was open to absorbing the January 1, 2022, variance of \$19,117 rather than seek an adjustment from the IESO.
11. To the contrary, at the time API answered that interrogatory it was expressing its openness to allowing that variance to remain unreconciled in the same way it was proposing the net amount of \$19,744 related to other variances remain unreconciled, based on the general proposition that of the variances through the 2021 to 2022 period, it was the May 2021 variance of \$346,261 that caused the overall variance in accounts 1588 and 1589 to materially exceed the OEB's threshold of 1% variance threshold.
12. Schedule 3 to this submission summarizes OEB Staff's apparent belief with respect to API's proposal for the net other variances and OEB Staff's suggestion that the January 2022 variance be foregone, with the result that API would absorb \$38,861 of net variances quantified by the MEGS report rather than seek to have those variances funded by the IESO through adjustments.
13. With respect to OEB Staff's mistaken belief concerning API's position, and despite the fact that API believes that under all the circumstances it should not be compelled to fund settlements between the IESO and API's customers for pass-through commodity

costs, API proposes as part of this submission to voluntarily fund the net total variance of \$38,861 related to all of the 2021 and 2022 monthly variances other than the May 1, 2021 variance of \$346,261. In this way, API respectfully submits, the resulting updated disposition to API's customers will reflect all the identified adjustments from the MEGS report without the need to address OEB Staff's misinterpretation of API's original proposal, and the only issue for the OEB to address are whether and to what extent the IESO should be directed to make a settlement adjustment with respect to the May 2021 variance of \$346,261 and how any such adjustment should be made.

14. Accordingly, Schedule 3 now represents API's position on how the identified variances should be funded.
15. In making this proposal API notes that it is proposing to fund \$38,861 in principal adjustments, incremental to the approximately \$48,000 of interest costs being funded by API associated with the net credit variance amount in accounts 1588 and 1589. In other words, while API does not believe that under the circumstances it should be compelled to fund adjustments or be punished for acting in good faith to accurately dispose of accounts 1588 and 1589, it should be noted by the OEB that when making its decision that API is already incurring approximately \$87,000 in total losses.
16. In summary, API respectfully submits that the OEB can utilize the Schedule 1 documents attached to this submission as the basis for the disposition of accounts 1588 and 1589 for the years 2021 and 2022, a disposition that represents the full reconciliation of amounts as between the IESO and API's customers, regardless of the OEB's decision with respect to whether the IESO should be directed to fund the May 2021 variance. As a result, the OEB need only determine two outstanding issues:
 - a) should the IESO be directed to make the requested \$346,261 adjustment for May 2021? and
 - b) if the IESO is directed to make the requested \$346,261 adjustment, how should that adjustment be made?

THE OEB SHOULD DIRECT THE IESO TO MAKE THE REQUESTED MAY 2021 ADJUSTMENT OF \$346,261

17. The implementation of regulation 153/23 on July 1, 2023,³ introduced the new issue of whether the OEB should provide the necessary direction to the IESO to allow it to make the settlement adjustment that would ultimately refund the overpayment made to the

³ Ontario Regulation 123/53 made under the *Electricity Act*, 1998, S.O. 1998, c. 15, Sched. A

IESO in May 2021, given that the ability for the IESO to make that adjustment on its own volition expired in May, 2023 (two months before the effective date of the regulation).

18. On this issue, while the IESO is not opposed to such a direction⁴, two parties (VECC and SEC) submit that no such direction should be made, with the effect that the adjustment of \$346,261 for May 2021 should be funded by API, implicitly as a penalty levied against API for not having requested the necessary adjustment from the IESO within the retroactively implemented 2-year limitation period.⁵
19. OEB Staff takes a similar approach, with the caveat that it asserts that the implicit penalty of \$346,261 would be inappropriate, proposing instead that the OEB allow 50% of the adjustment on the May 2021 variance, resulting in an incremental penalty to API of \$173,131 before accounting for the previously mentioned total loss of almost \$87,000 incurred by API.⁶
20. It is API's respectful submission that, under the circumstances of this case, it would be inappropriate and unreasonably punitive to API to refuse to direct the requested adjustment for May 2021, and that accordingly in approving the disposition of accounts 1588 and 1589 for the years 2021 and 2022 the OEB should direct the IESO to make the requested adjustment for the May 2021 variance.
21. The remainder of API's submissions focus on the appropriateness of allowing the requested settlement adjustment with the IESO to occur.

SECTION 36.1.1 (7) (B) OF THE ELECTRICITY ACT IS INTENDED TO MAINTAIN, NOT RESTRICT, THE OEB'S DISCRETION OVER ITS PROCESSES

22. The implementation of regulation 153/23 on July 1, 2023, created a generic 2-year limitation period after which the IESO is prevented from unilaterally making any settlement adjustments. It is API's respectful submission, however, that the exclusion under section 36.1.1 (7) (b) of the Act is specifically intended to avoid a situation where the OEB has, at its discretion, permitted the existence of commodity related variance accounts in order to maintain its ability to make out of period adjustments, only to have that ability compromised as a result of a generic limitation period.
23. In API's submission the exemption created by section 36.1.1 (7) (b) of the Act is intended to provide OEB with a full, unfettered discretion to regulate the relationship

⁴ IESO Submission page 5; the IESO does not take a position on whether any adjustments should be required.

⁵ VECC submission page 3, SEC submission page 1.

⁶ OEB Staff submission page 10.

between the IESO, regulated distributors and their customers when dealing with the pass-through of commodity costs.

24. In the present case API was permitted to keep accounts 1588 and 1589 for the years 2021 and 2022 open through to 2025 to allow API the opportunity to ensure the accuracy of the final proposed disposition.⁷

25. Under these circumstances it is API's submission that section 36.1.1 (7) (b) of the Act exists to ensure that the proper disposition of API's 2021 and 2022 related 1588 and 1589 amounts are not impeded by the generic limitation period under section 36.1.1 of the Act, and that accordingly the OEB should maintain and exercise the power to direct the IESO to make adjustments in conjunction with the deferred 2021 and 2022 disposition of the 1588 and 1589 accounts.

26. In API's respectful submission, the proper dispositions of accounts 1588 and 1589 for 2021 and 2022 are fundamentally impaired if the ability to make the necessary adjustments as between API and the IESO outside of the generic 2-year limitation period, an ability expressly granted to the OEB, is not exercised.

THE NATURE OF ACCOUNTS 1588 AND 1589 AND API'S GOOD FAITH CONDUCT IN ENSURING ACCURATE DISPOSITION FAVOUR ALLOWING THE REQUESTED SETTLEMENTS

27. All parties note that this is the first proceeding where a regulated distributor is seeking a decision of the OEB that engages s. 36.1.1 (7) (b) of the Act to obviate the operation of any limitation period on the IESO's ability to adjust settlements related to accounts 1588 and 1589.⁸

28. Accordingly, there are no precedents for the parties to look to, nor has the OEB issued any generic guidance as to how it expects to reflect the newly operational limitation period in any decisions it makes with respect to the clearance of commodity accounts like 1588 and 1589.

29. The only direction cited by the parties is the October 31, 2019 direction of the OEB which provides instructions to distributors that, in API's respectful opinion, favour the careful review of the amounts tracked in pass-through commodity accounts prior to disposing of those amounts on a final basis, primarily to avoid the need for retroactive ratemaking with possible consequences to distributors that seek such retroactive changes to final disposition orders.⁹ The direction does not speak to the issue of the

⁷ EB-2021-0006, EB-2022-0014, EB-2023-0005

⁸ VECC submission page 4, SEC submission page 2, OEB Staff submission page 8.

⁹ VECC submission page 4, SEC submission page 3, OEB Staff submission page 8.

availability of adjustments from the IESO, presumably because at the time the direction was issued the IESO was not constrained by any such limitation period; the IESO was able to unilaterally accommodate the OEB's use of variance accounts to deal with out of period adjustments without the need for OEB direction.

30. More particularly, API notes, this proceeding concerns a very specific scenario which can arise in only a very few cases for only a finite period. Specifically, the current proceeding reflects a transition period where the implementation of the limitation period (July 1, 2023) was after the expiration of the effective limitation period (May 2023) for the requested adjustment of \$346,261 related to May 2021. In API's submission the fact that:

- a) the issue has yet to be addressed by the OEB in any substantive way to date,
- b) the general direction to regulated distributors with respect to pass-through commodity accounts promotes caution in clearing those accounts on a final basis to avoid the consequences of requiring retroactive adjustments to final disposition orders, and
- c) the scenario faced by API and its customers in this specific instance falls within a transition period that will only apply for a short period of time in a limited number of cases,

combine to support a decision from the OEB that recognizes API's good faith efforts to, with full transparency before the OEB and without specific guidance on how the OEB is going to deal with the new framework going forward, provide the OEB with the most accurate information it could gather to underpin the disposition of the related accounts on a final basis.

31. Accounts 1588 and 1589 relate to pass-through commodity costs, with the regulated distributor acting as the intermediary between the IESO and the distributor's customers. The distributor is not supposed to either earn a profit or lose money in relation to the clearance of those accounts; the distributor's interest in these types of deferral and variance accounts is to ensure that they are cleared on an accurate basis.

32. It is API's submission, which no party contradicts, that it always acted in good faith in deferring the disposition of accounts 1588 and 1589 for the years 2021 and 2022 to ensure that the amounts ultimately disposed of were accurate. In API's submission it was acting in accordance with the OEB's October 31, 2019, guidance, which outlines the consequences to distributors of disposing of their pass-through commodity accounts on a final basis and then having to revisit those dispositions through a

retroactive ratemaking exercise.¹⁰ In API's respectful submission the OEB's directions at the time API deferred disposition of accounts 1588 and 1589 preferred that distributors take the time necessary to ensure accurate dispositions of commodity accounts.

33. As noted in the submissions of all parties, the issue of the unexplained variance in the subject accounts for the years 2021 and 2022 was brought forward to the OEB on an annual basis during API's annual rate making applications, culminating in a two-stage review of the subject years by MEGS, a newly formed consulting service firm with staff experienced and knowledgeable with each of the RPP Settlement Processes, the OEB Guidance for Accounts 1588/1589, and the associated calculations.¹¹
34. At no point in those annual proceedings was it suggested that deferring the disposition of the accounts in relation to the years 2021 and 2022 to ensure that the unexplained variance was accurately addressed was an issue of concern for the OEB.
35. In API's respectful submission it was implicitly understood that it was to the benefit of all parties to keep the variance accounts open and defer any final disposition until any issues could be identified and resolved rather than prematurely clearing the accounts on a final basis and risk the need to retroactively adjust rates.
36. In API's view it is plainly appropriate that the OEB maintain the ability to direct adjustments by the IESO in tandem with the maintenance of variance accounts that may require such adjustments so that on disposition the OEB can fully reconcile the tracked commodity costs.

ALLOWING THE REQUESTED ADJUSTMENT WITH THE IESO REVERSES A WINDFALL AND KEEPS ALL PARTIES WHOLE

37. API's proposed disposition and adjustment with the IESO is the only proposal that hold all parties, other than API, harmless.
38. API's proposal ensures that its customers pay the correct amount for their commodity, that the customers in the province at large, notionally represented by the IESO, do not benefit from and are not harmed by inaccurate settlements, and holds API harmless (but for the variances and carrying costs it proposes to absorb totaling approximately

¹⁰ OEB letter dated October 31, 2019, Re: Adjustments to Correct for Errors in Electricity Distributor "Pass-Through" Variance Accounts After Disposition, page 1; API notes that the letter specifically asserts that it applies to "the variance accounts listed below for so-called "pass-through costs that have been cleared by a final order of the OEB on and after the date of this letter."

¹¹ Exhibit 9, page 20, attachments 9C and 9D.

\$87,000) from having to fund adjustments related to costs that are intended to be pass-through amounts between the IESO and API's customers.

39. The proposals by parties other than API and the IESO, by contrast, actively seek to maintain a windfall on the part of the customers in the province at large by denying the adjustment required to reverse the large overpayment to the IESO in May 2021, and to specifically punish API by having API fund that windfall. With respect, API does not believe there is any rationale supporting the notion that the IESO should retain a \$346,261 windfall, particularly under the circumstances in this proceeding.
40. Denying API the ability to obtain an adjustment from the IESO as requested would be tantamount to imposing \$346,261 fine on API for utilizing its OEB approved variance accounts to defer the final disposition of accounts 1588 and 1589 until it could do so on an accurate basis, a disposition that is supposed to be a pass-through of amounts between the IESO and ratepayers without impact on API. Such a penalty would be particularly egregious in a circumstance where the very reason the OEB allowed API to defer disposition of the affected accounts was to give API the time to ensure that accuracy of the proposed settlements as between the IESO and ratepayers.
41. Additionally, as noted earlier, API is already absorbing approximately \$87,000 in combined principal and interest to fund the disposition of the accounts.
42. API notes that while the IESO does not argue that it should be entitled to retain the overpayments made in May 2021 and January 2022, VECC, SEC, and to a lesser extent OEB Staff are implicitly suggesting that such windfalls should be routinely allowed.
43. In API's respectful submission the multiple sections negating the operation of any limitation period in relation to the OEB's purview over regulated distributors suggest strongly that the limitation period brought into effect under O. Reg 153/2023 was not intended establish a regime where windfalls resulting from incorrect payments to or from the IESO are routinely reinforced except in exceptional circumstances; it is API's submission that the exemptions under 36.1.1 (7), including specifically (7) (b), make it clear that the OEB's authority to ensure rates are just and reasonable, without impediment from the generic limitation period, remains the priority consideration.

API COULD NOT SEEK ADJUSTMENTS FROM THE IESO UNTIL IT IDENTIFIED THE NEED FOR AND QUANTUM OF ANY SUCH ADJUSTMENTS

44. Some submissions point to OEB statements to the effect that regulated distributors should not wait for OEB decisions with respect to required adjustments as between the

distributor and the IESO.¹² Presumably, in the present case, the inference is that API did not have to wait for the approval of the final disposition of accounts 1588 and 1589 in this proceeding to seek correcting adjustments from the IESO.

45. In API's respectful submission the assertion that distributors do not have to wait for OEB decisions approving variance account dispositions before seeking adjustments from the IESO fails for two specific reasons in this instance:
- a) while API agrees that it is possible to seek adjustments from the IESO without the need for OEB approval of the final disposition of the related amounts, API does not agree that it is feasible to seek adjustments from the IESO at all before being able to explain the need for and accuracy of any such adjustments; and
 - b) the cited examples where the OEB has commented on the ability of distributors to seek adjustments from the IESO prior to final disposition of the accounts through a decision of the OEB were made prior to the implementation of O. Reg. 153/23 implementing a 2-year limitation period for such adjustments.
46. With these two reasons in mind, API notes that it was not in a position until March 2024 to start the process of seeking the appropriate adjustments from the IESO, after having engaged a 3rd party consultant to review the issue of the unexplained variances and receiving their final report in March 2024.¹³
47. API requested that the IESO make the required adjustment once API was able to verify the necessary adjustment. However, as the requested adjustment was outside the new two-year limitation period, the IESO was prohibited from making the adjustment without the operation of an exemption under section 36.1.1 of the Act. That reality meant that API had no alternative but to seek relief from the OEB to approve the appropriate adjustments with the IESO, as will now be the case every time a regulated distributor requires an adjustment outside the two-year limitation period.

DISCOVERABILITY IS NOT AN ISSUE WHEN CONSIDERING THE OEB'S AUTHORITY OVER ITS OWN PROCESSES AS A RESULT OF SECTION 36.1.1 (7) (B)

48. The IESO suggests that, while the generic limitation period is not subject to discoverability because of section 36.1.1(5) of the Act, discoverability should be a consideration for the OEB when determining whether it requires adjustments outside the limitation period. In API's respectful submission the issue of discoverability is a unique legal concept that applies to otherwise immutable limitation periods and is not

¹² VECC submission page 4, OEB Staff submission page 9.

¹³ Interrogatory responses 9-Staff-71.

properly characterized as a consideration when the OEB is determining the disposition of a variance account as is the case in this proceeding.

49. In API's respectful submission there is a practical effect of the newly operationalized generic limitation period and the negation of that limitation period under section 36.1.1 (7) (b) of the Act that the OEB, going forward, must account for. When dealing with the disposition of pass-through commodity accounts and, more particularly, the deferred disposition of those accounts in order to allow distributors time to investigate variances as was the case in this instance, the OEB will, now, have to account for not only the implications of deferring the disposition of those accounts from the perspective of ratepayers; it will also have to account for the fact that adjustments with the IESO beyond the limitation period are now in the hands of the OEB, whereas in the past adjustments between distributors and the IESO in connection with commodity pass-through accounts covering periods well beyond two years could be handled by the IESO as a routine matter.
50. In API's view the issue is not one of discoverability. It is a need to recognize, going forward, that if/when the OEB allows the disposition of commodity pass-through accounts to be deferred, there is likely a need to expressly address the potential need for adjustments outside the generic limitation period, including, for example, providing notice to the IESO about the potential future adjustment. In this way, API respectfully submits, the IESO can be kept informed of the potential adjustments being held open through the operation of section 36.1.1 (7) (b) of the Act and other exemptions related to the OEB's jurisdiction over its own processes.
51. To be clear, API's suggestions about accounting for the new regulatory regime in general and with respect to providing notice to the IESO of potential future adjustments specifically arise out of its experience in this proceeding, which is borne out of a set of circumstances that clearly fall within the transition period between the old and new regimes with respect to IESO related settlement adjustments.
52. Under the old regime, as demonstrated by the examples cited by the parties, the ability to obtain adjustments from the IESO was not an issue of concern. API notes, for example, that in EB-2023-0037, cited by OEB Staff in its submission, London Hydro Inc. was able to recover several million dollars in adjustments from the IESO starting in November 2022 for adjustments as far back as 2015, in relation to 1588 and 1589 dispositions that, in some cases, had been final.¹⁴ Under the new regime, the OEB is responsible for coordinating the deferred disposition of its commodity pass-through accounts and related adjustments with the IESO; the IESO would not have had the

¹⁴ EB-2023-0037 Manager's summary, page 21-22 describes how London Hydro Inc. was able to obtain adjustments from the IESO in November 2022 related to variances that reached back as far as 2015 and 2016, which had previously been disposed of on a final basis.

ability to unilaterally make adjustments reaching back 7 years as it did for London Hydro Inc., it would have had to wait for a direction from the OEB to do so, presumably in conjunction with the OEB's approval of the disposition of those accounts.

53. To that end, API notes the within the OEB's October 31, 2019, letter the OEB's guidance on its approach to retroactive ratemaking specifically indicates that it is intended as notice with respect to retroactive ratemaking proposals on a prospective basis:

This letter provides notice of the Ontario Energy Board's (OEB) approach to addressing accounting or other errors in respect of certain electricity distributor variance accounts through retroactive adjustments in appropriate cases. This generic approach will apply to the variance accounts listed below for so-called "pass-through costs" that have been cleared by a final order of the OEB on and after the date of this letter. (emphasis added).¹⁵

54. In other words, API respectfully submits, the OEB determined that there was uncertainty surrounding how the OEB intended to approach accounting or other errors in respect of pass-through costs, and so issued the necessary guidance so that parties would know how, going forward, the issue would be handled.

55. API submits that the within proceeding represents a similar circumstance, where what is necessary is OEB guidance going forward. As all parties have noted, this is the first time this issue has arisen, and in this case it has arisen in the context of the implementation a limitation that expired before it was implemented, without the OEB having turned its mind as to how to combine its traditional control over the disposition of commodity related variance accounts with its new control over the ability of the IESO to make adjustments related to the OEB's disposition decisions outside of an initial two-year period.

56. Under all these circumstance API respectfully submits it would be unjust and unreasonable to withhold a direction to the IESO to make the requested \$346,261 adjustment.

API HAS NO OBJECTION TO THE IESO'S PROPOSAL AS TO HOW TO ACCOUNT FOR ANY ADJUSTMENT

57. API notes that the IESO provided specific submissions, if directed to make a settlement adjustment, on how that adjustment should be accounted for. API has reviewed the

¹⁵ OEB letter dated October 31, 2019, Re: Adjustments to Correct for Errors in Electricity Distributor "Pass-Through" Variance Accounts After Disposition, page 1.

IESO's request with respect to the methodology for making an authorized adjustment and has no objections to having adjustments handled in that manner.

CONCLUSION

58. In summary, API has provided as Schedule 1 to this submission the continuity schedule and resulting rider calculations that represents the accurate reconciliation of accounts 1588 and 1589 for the years 2021 and 2022, providing API's customers full credit for the correction of all identified variances for those years. It is API's understanding that no party objects to the proposed disposition to API's customers in this manner, as it accounts for the variances identified in the MEGS report, plus the correction identified by OEB Staff. In other words, regardless of the OEB's decision on the requested adjustment from the IESO, API's customer will receive the full benefit of all the identified variances through the disposition outlined in Schedule 1.
59. The separate issue of how the identified variances should be funded has been simplified, through API's submissions, to the single question as to whether the IESO should be directed to fund the May 2021 variance of \$346,261. In API's submission, under all the circumstances, it would inappropriate and unjust to deny API's request for an order directing the IESO to fully fund that adjustment.
60. The remaining issue of how that adjustment should be funded by the IESO to API, if it is required, is unopposed; API does not take issue with the IESO description of how any required variance should be handled from an accounting perspective.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 5th DAY OF NOVEMBER, 2024

Schedule 1: OEB DVA Model (Excel)

Schedule 2: API's Original Application and Intent Re: 1588/1589 Class A Corrections

Month	Class A Consumption Error (kWh)	Estimated Adjustment Amount	
		\$	
Jan-21	-19,912	-\$ 1,652	unreconciled 1588/1589
May-21	-3,445,387	-\$ 339,087	recover from IESO
Jan-22	-437,136	-\$ 19,117	recover from IESO
Feb-22	-157,919	-\$ 8,284	unreconciled 1588/1589
Jun-22	-194,829	-\$ 15,329	unreconciled 1588/1589
Sep-22	16,803	\$ 545	unreconciled 1588/1589
Nov-22	-16,803	-\$ 1,174	unreconciled 1588/1589
Dec-22	179,466	\$ 6,150	unreconciled 1588/1589
Total	-4,075,717	-\$ 377,948	
Breakdown:			
Recover from IESO	-3,882,523	-\$ 358,204	
Unreconciled in 1588/1589	-193,194	-\$ 19,744	

NOTE: Schedule 2 describes the original proposal within API's application; this proposal has effectively been withdrawn and replaced by Schedule 3 through this submission.

Schedule 3: API's Interpretation of OEB's Submission Belief Re: 1588/1589 Class A Corrections

Month	Class A Consumption Error (kWh)	Estimated Adjustment Amount	
		\$	
Jan-21	-19,912	-\$ 1,652	absorbed by API
May-21	-3,445,387	-\$ 346,261	recover from IESO
Jan-22	-437,136	-\$ 19,117	absorbed by API
Feb-22	-157,919	-\$ 8,284	absorbed by API
Jun-22	-194,829	-\$ 15,329	absorbed by API
Sep-22	16,803	\$ 545	absorbed by API
Nov-22	-16,803	-\$ 1,174	absorbed by API
Dec-22	179,466	\$ 6,150	absorbed by API
Total	-4,075,717	-\$ 385,122	
Breakdown:			
Recover from IESO	-3,445,387	-\$ 346,261	
Absorbed by API	-630,330	-\$ 38,861	

NOTE: Schedule 3 now summarizes API's revised position on how all the identified variances should be funded. API notes that the schedule does not account for the carrying costs associated with the net credit to ratepayers; those carrying costs will be funded by API in this proposal.