

CCMBC-1

Reference: 3.3.2.1 Incremental Capital Module (ICM) Filing Requirements, page 47

Preamble: “LUI acknowledges that typically, Incremental Capital Module (ICM) funding is requested prior to the construction of a project. However, in this case, LUI did not do so and recognizes that by filing for ICM relief for the 2025 rates, it is not claiming relief for the related 2023 and 2024 revenue requirements. Instead, LUI proposes to analyze ICM eligibility based on its actual spending in 2023, the year the project was put into service. While LUI understands that claiming relief from 2025 onward might raise questions about materiality thresholds and asset depreciation, it believes this approach is justified given the circumstances.”

Questions:

- a) Please provide references to OEB rules, regulations or guidelines that allows a utility to apply for an ICM for a capital project that was placed in service two years after the capital project was placed in service.

LUI Response:

In our opinion the Ontario Energy Board (OEB) has established clear policies regarding Incremental Capital Module (ICM) applications. These policies allow utilities to apply for ICM funding for discrete capital projects under certain conditions, including during the incentive rate-setting (IR) term. The primary criteria focus on materiality, need, and prudence, rather than the precise timing of project in-service dates relative to the filing date. For example, the OEB's guidance in Chapter 3 Filing Requirements highlights that ICM requests must demonstrate that projects are significant and cannot be accommodated within the base rates, with supporting evidence provided to justify the timing and financial necessity.

LUI believes there is no explicit rule requiring a two-year restriction after a project is placed in service for eligibility, and the supplemental OEB reports on ICM and ACM policies emphasize flexibility to account for unique project circumstances.

Therefore, we respectfully request that the writer provide a specific reference or citation from OEB regulations, guidelines, or decisions where it explicitly states such a restriction applies. Without such a reference, the question's premise appears inconsistent with the OEB's principles of flexibility and case-by-case evaluation. Providing this clarification will ensure the discussion is aligned with established regulatory frameworks.